

SENATE

S.B. No. 3320

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Introduced by Senator Sergio Osmeña III

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**EXPLANATORY NOTE**

The bill seeks to strengthen the National Electrification Administration (NEA) and the electric cooperatives (ECs) as effective, responsive and pro-people vehicles for bringing reliable electricity at reasonable rates to all Filipinos in all the country's puroks, sitios and barangays, thereby paving the way for a more balanced and sustainable development of the entire country.

The NEA is the government agency primarily charged with implementing the rural electrification program of the government. With the upcoming implementation of the Retail Competition and Open Access as mandated by the Electric Power Industry Reform Act of 2001 (EPIRA), NEA's financial, technical and institutional expertise will play a significant role in assisting ECs cope with the ever evolving power industry.

The amendments to the NEA Charter seek to address this by empowering NEA to oversee the operations of the ECs and aid them in their undertakings. The amendments include provisions giving NEA step-in rights so as to immediately arrest the operational deficiencies of electric cooperatives. The amendments will also allow the government to monitor the implementation of the rural electrification program and pave the way for the continued good governance and reliable operation of distribution utilities in rural areas, the attainment of the government's socio-economic reform agenda, and provide speedy and responsive remedies in cases of abuse and mismanagement of the ECs.

The President's accelerated Sitio Electrification Program (SEP) is one of the key measures of the Aquino Administration in spurring the economic growth of the countryside and is considered as one of the pillars of the present administration's covenant with the Filipino people. The main proponents for the realization of this program are the ECs which remain to be non-profit and service-oriented. This program targets to provide electricity to 32,441 sitios under NEA by 2015. Under NEA's continued supervision over the ECs, the program is assured to be implemented in areas where it is most needed, i.e., the far-flung sitios in the provinces where no privately-owned utilities (POUs) are willing to electrify.

To date, a total of 9.4 million consumers, 81,566 sitios, and 36,049 barangays have been energized, benefitting a total of 47 million Filipinos in the countryside.

The bill is intended to establish a framework for the necessary structural reforms in the NEA and the ECs to catalyze them to become more effective and responsive vehicles for providing access to reliable electricity at affordable rates to all Filipinos, particularly those living in the most far-flung rural areas of the country.

The immediate passage of this bill is therefore earnestly sought.

*S. Osmeña III*  
SEN. SERGIO R. OSMEÑA III



1 areas and therefore less costly to electrify. Every public service entity should hereafter cooperate  
2 in a national program of electrification on an area coverage basis, or else surrender its franchise  
3 in favor of those public service entities which will. It is hereby found that the total electrification  
4 of the Nation requires that the laws and administrative practices relating to franchised electric  
5 service areas be revised and made more effective, as herein provided. It is therefore hereby  
6 declared to be the policy of the State that franchises for electric service areas shall hereafter be so  
7 issued, conditioned, altered or repealed, and shall be subject to such continuing regulatory  
8 surveillance, that the same shall conduce to the most expeditious electrification of the entire  
9 Nation on an area coverage basis.] **IT IS HEREBY DECLARED THE POLICY OF THE**  
10 **STATE TO:**

11 (A) **PROMOTE THE SUSTAINABLE DEVELOPMENT IN THE RURAL**  
12 **AREAS THROUGH RURAL ELECTRIFICATION;**

13 (B) **EMPOWER AND STRENGTHEN THE NATIONAL ELECTRIFICATION**  
14 **ADMINISTRATION TO PURSUE THE ELECTRIFICATION PROGRAM AND BRING**  
15 **ELECTRICITY, THROUGH THE ELECTRIC COOPERATIVES AS ITS**  
16 **IMPLEMENTING ARM, TO THE COUNTRYSIDE EVEN IN MISSIONARY OR**  
17 **ECONOMICALLY UNVIABLE AREAS;**

18 (C) **EMPOWER AND ENABLE ELECTRIC COOPERATIVES TO COPE**  
19 **WITH THE CHANGES BROUGHT ABOUT BY THE RESTRUCTURING OF THE**  
20 **ELECTRIC POWER INDUSTRY PURSUANT TO REPUBLIC ACT NO. 9136,**  
21 **OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF**  
22 **2001.”**

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

25 **“SEC. 2-A. SCOPE.— THIS ACT SHALL ESTABLISH A FRAMEWORK FOR**  
26 **INTRODUCING STRUCTURAL REFORMS IN THE NATIONAL**  
27 **ELECTRIFICATION ADMINISTRATION AND THE ELECTRIC**  
28 **COOPERATIVES.”**

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

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

33 **XXX XXXXXX**

1 (S) "CDA" SHALL REFER TO THE COOPERATIVE DEVELOPMENT  
2 AUTHORITY CREATED UNDER REPUBLIC ACT NO. 6939, AS AMENDED;

3 (T) "DOE" SHALL REFER TO THE DEPARTMENT OF ENERGY  
4 CREATED UNDER REPUBLIC ACT NO. 7638, AS AMENDED;

5 (U) "ELECTRIC COOPERATIVE" SHALL REFER TO AN ELECTRIC  
6 DISTRIBUTION UTILITY ORGANIZED AND REGISTERED PURSUANT TO  
7 PRESIDENTIAL DECREE NO. 269, AS AMENDED, REPUBLIC ACT NO. 9520, AND  
8 OTHER RELATED LAWS;

9 (V) "EPIRA" SHALL REFER TO REPUBLIC ACT NO. 9136 OR THE  
10 "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001"; AND

11 (W) "ERC" SHALL REFER TO THE ENERGY REGULATORY  
12 COMMISSION CREATED UNDER SECTION 38 OF REPUBLIC ACT NO. 9136."

## 13 CHAPTER II

### 14 THE NATIONAL ELECTRIFICATION ADMINISTRATION

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

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

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

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

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

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

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

32 (f) To make loans to public service entities, with preference to cooperatives, for the  
33 construction or acquisition, operation and maintenance of generation, transmission and  
34 distribution facilities and all related properties, equipment, machinery, fixtures, and materials for  
35 the purpose of supplying area coverage service, and thereafter to make loans for the restoration,  
36 improvement or enlargement of such facilities: *Provided*, That the public service entity

1 supplying for a loan, if neither a cooperative nor a local government, must be in operation at the  
2 time of application;

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

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

13 (i) To make loans for the purpose of financing the wiring of premises of persons served  
14 or to be served as a result of loans made under subparagraph (f) of this Section, and for the  
15 acquisition and installation by such persons of electrically-powered appliances, equipment,  
16 fixtures and machinery of all kinds for residential, recreational, commercial, agricultural and  
17 industrial uses, such loans to be made directly (1) to public service entities which have received  
18 loans under sub-paragraph (f) of this section, which entities shall in turn relend such funds to  
19 persons served or to be served by them, or (2) to any persons served or to be served by public  
20 service entities which have received loans under sub-paragraph (f) of this section: *Provided*, That  
21 at no time shall the total loans made under this sub-paragraph (i) to a public service entity and/or  
22 to persons served or to be served by such entity exceed twenty-five (25%) per centum of the  
23 outstanding loans to such entity made under sub-paragraph (f) of this section;

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

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

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

37 (m) To acquire, by purchase or otherwise (including the right of eminent domain, which  
38 is hereby granted to the NEA, to be exercised in the manner provided by law for the institution

1 and completion of expropriation proceedings by the National and local governments,) real and  
2 physical properties, together with all appurtenant rights, easements, licenses and privileges,  
3 whether or not the same be already devoted to the public use of generating, transmitting or  
4 distributing electric power and energy, upon NEA's determination that such acquisition is  
5 necessary to accomplish the purposes of this Decree and, if such properties be already devoted to  
6 the public use described in the foregoing, that such use will be better served and accomplished  
7 by such acquisition: *Provided*, That the power herein granted shall be exercised by the NEA  
8 solely as agent for and on behalf of one or more public service entities which shall timely  
9 receive, own and utilize or replace such properties for the purpose of furnishing adequate and  
10 dependable service on an area coverage basis, which entity or entities shall then be, or in  
11 connection with the acquisition shall become, borrowers from the NEA under sub-paragraph (f)  
12 of this section: *Provided further*, That the costs of such acquisition, including the cost of any  
13 eminent domain proceedings, shall be borne, either directly or by reimbursement to the NEA,  
14 whichever the NEA shall elect, by the public service entity or entities on whose behalf the  
15 acquisition is undertaken; and otherwise to acquire, improve, hold, transfer, sell, lease, rent,  
16 mortgage, encumber and otherwise dispose of property incident to, or necessary, convenient or  
17 proper to carry out, the purposes for which NEA was created;

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

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

35 ***POWERS, FUNCTIONS AND PRIVILEGES OF THE NATIONAL ELECTRIFICATION***  
36 ***ADMINISTRATION.- TO STRENGTHEN THE ELECTRIC COOPERATIVES, HELP***  
37 ***THEM BECOME ECONOMICALLY VIABLE AND PREPARE THEM FOR THE***  
38 ***IMPLEMENTATION OF RETAIL COMPETITION AND OPEN ACCESS PURSUANT***

1 TO SECTION 31 OF THE EPIRA, THE NATIONAL ELECTRIFICATION  
2 ADMINISTRATION SHALL:

3 (A) SUPERVISE THE MANAGEMENT AND OPERATIONS OF ALL  
4 ELECTRIC COOPERATIVES;

5 (B) EXERCISE STEP-IN RIGHTS AS HEREIN DEFINED;

6 (C) PROVIDE INSTITUTIONAL, FINANCIAL AND TECHNICAL  
7 ASSISTANCE TO ELECTRIC COOPERATIVES UPON REQUEST OF THE  
8 ELECTRIC COOPERATIVES;

9 (D) PURSUE THE TOTAL ELECTRIFICATION OF THE COUNTRY  
10 THROUGH THE ELECTRIC COOPERATIVES, IN COORDINATION WITH THE  
11 NATIONAL POWER CORPORATION – SMALL POWER UTILITIES GROUP (NPC-  
12 SPUG);

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

15 (F) ENSURE THE ECONOMIC AND FINANCIAL VIABILITY AND  
16 OPERATION OF ALL ELECTRIC COOPERATIVES;

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

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

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

34 (K) GRANT LOANS TO ELECTRIC COOPERATIVES, FOR THE  
35 CONSTRUCTION OR ACQUISITION, OPERATION AND MAINTENANCE OF  
36 TRANSMISSION AND DISTRIBUTION FACILITIES AND ALL RELATED  
37 PROPERTIES, EQUIPMENT, MACHINERY, FIXTURES, AND MATERIALS FOR  
38 THE PURPOSE OF SUPPLYING AREA COVERAGE SERVICE, AND THEREAFTER

1 TO GRANT LOANS FOR THE RESTORATION, IMPROVEMENT OR  
2 ENLARGEMENT OF SUCH FACILITIES OR FOR SUCH OTHER PURPOSES AS

3 (L) MAY BE DEEMED NECESSARY;

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

9 (N) EXERCISE PRIMARY AND EXCLUSIVE JURISDICTION IN THE  
10 ADJUDICATION OF COMPLAINTS AGAINST ELECTRIC COOPERATIVE  
11 OFFICERS, ELECTION DISPUTES AND ALL MATTERS RELATING TO THE  
12 EFFECTIVE IMPLEMENTATION OF THE PROVISIONS OF THIS ACT;

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

17 (P) EXERCISE SUCH POWERS AND DO SUCH THINGS AS MAY BE  
18 NECESSARY TO CARRY OUT THE BUSINESS AND PURPOSES FOR WHICH THE  
19 NEA WAS ESTABLISHED, OR WHICH FROM TIME TO TIME MAY BE DECLARED  
20 BY THE BOARD OF ADMINISTRATORS AS NECESSARY, USEFUL, INCIDENTAL  
21 OR AUXILIARY TO ACCOMPLISH SUCH PURPOSES; AND

22 (Q) GENERALLY, TO EXERCISE ALL THE POWERS OF A  
23 CORPORATION UNDER BATAS PAMBANSA BILANG 68, OTHERWISE KNOWN AS  
24 THE "CORPORATION CODE OF THE PHILIPPINES" INsofar AS THEY ARE NOT  
25 INCONSISTENT WITH THE PROVISIONS OF THIS ACT."

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

28 "SEC. 4-A. *SUPERVISORY POWERS OF THE NATIONAL ELECTRIFICATION*  
29 *ADMINISTRATION OVER ELECTRIC COOPERATIVES.*— IN THE EXERCISE OF ITS  
30 POWER OF SUPERVISION OVER ELECTRIC COOPERATIVES, THE NEA SHALL  
31 HAVE THE FOLLOWING POWERS:

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

36 (B) ISSUE PREVENTIVE OR DISCIPLINARY MEASURES, INCLUDING  
37 BUT NOT LIMITED TO, SUSPENSION OR REMOVAL AND REPLACEMENT OF



1 ANY OR ALL OF THE MEMBERS OF THE BOARD OF DIRECTORS, OFFICERS OR  
2 EMPLOYEES OF THE ELECTRIC COOPERATIVE, AS THE NEA MAY DEEM FIT  
3 AND NECESSARY AND TO TAKE ANY OTHER REMEDIAL MEASURES AS THE  
4 LAW OR ANY AGREEMENT OR ARRANGEMENT WITH NEA MAY PROVIDE, TO  
5 ATTAIN THE OBJECTIVES OF THIS ACT.

6 THE NEA SHALL, IN THE EXERCISE OF ITS SUPERVISORY AND  
7 DISCIPLINARY POWERS UNDER THIS ACT, STRICTLY OBSERVE DUE PROCESS  
8 OF LAW.”

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

11 “SEC. 4-B. *STEP-IN RIGHTS IN CASES OF AILING COOPERATIVES.*— THE  
12 NEA SHALL IMMEDIATELY STEP-IN AND TAKE OVER FROM ITS BOARD  
13 THE OPERATIONS OF ANY AILING ELECTRIC COOPERATIVE. WITHIN A  
14 REASONABLE PERIOD AFTER TAKE-OVER, THE NEA MAY CONVERT THE  
15 AILING COOPERATIVE TO EITHER A STOCK COOPERATIVE REGISTERED  
16 WITH THE CDA OR A STOCK CORPORATION REGISTERED WITH THE  
17 SECURITIES AND EXCHANGE COMMISSION.

18 THE NEA SHALL, IN DETERMINING THE PROPRIETY OF THE  
19 CONVERSION, BE GUIDED BY THE ABILITY TO PAY OF THE MEMBER-  
20 CONSUMERS OF SAID ELECTRIC COOPERATIVE FOR THEIR SHARES IN  
21 THE STOCK COOPERATIVE OR STOCK CORPORATION.

22 THE NEA MAY APPOINT OR ASSIGN THIRD PERSONS TO THE BOARD  
23 OF THE ELECTRIC COOPERATIVE UNTIL THE NEA DECIDES THAT THE  
24 ELECTION OF A NEW BOARD OF DIRECTORS TO MANAGE THE ELECTRIC  
25 COOPERATIVE IS NECESSARY. THE NEA MAY CREATE A MANAGEMENT  
26 TEAM FOR THE PURPOSE.

27 THE NEA SHALL, IN THE EXERCISE OF ITS STEP-IN RIGHTS UNDER THIS  
28 ACT, STRICTLY OBSERVE DUE PROCESS OF LAW. THE STEP-IN RIGHTS  
29 MAY ONLY BE EXERCISED BY THE NEA IN CASE OF FAILURE OF THE  
30 ELECTRIC COOPERATIVE TO MEET OPERATIONAL AND FINANCIAL  
31 STANDARDS SET BY THE NEA OR IN OTHER ANALAGOUS INSTANCES SET  
32 FORTH IN THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT.”

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

35 “SEC. 4-C. *INJUNCTION OR TEMPORARY RESTRAINING ORDER.* – NO  
36 INJUNCTION OR TEMPORARY RESTRAINING ORDER SHALL BE ISSUED

1 AGAINST THE IMPLEMENTATION OF ANY ORDER, RULING OR DECISION  
2 OF THE NEA, EXCEPT BY THE COURT OF APPEALS, AND ONLY UPON THE  
3 POSTING OF A BOND SUFFICIENT TO COVER THE LIABILITIES AND  
4 EXPENDITURES ARISING DURING THE PENDENCY OF THE WRIT OR  
5 INJUNCTION OR TEMPORARY RESTRAINING ORDER;*PROVIDED*, THAT THE  
6 INJUNCTION SHALL ONLY BE EFFECTIVE FOR A PERIOD NOT EXCEEDING  
7 SIXTY (60) DAYS.”

8 CHAPTER III  
9 ELECTRIC COOPERATIVES

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

12 “SEC. 16. *Powers*. A cooperative is hereby vested with all powers necessary or  
13 convenient for the accomplishment of its corporate purpose and capable of being delegated by  
14 the President or the National Assembly when it comes into existence; and no enumeration of  
15 particular powers hereby granted shall be construed to impair any general grant of power herein  
16 contained, nor to limit any such grant to a power or powers of the same class as those so  
17 enumerated. Such powers shall include but not be limited to, the power:

18 XXX XXXXXX

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

27 **(J-1) TO CONSTRUCT, ACQUIRE, OWN, OPERATE AND MAINTAIN**  
28 **GENERATING FACILITIES WITHIN ITS FRANCHISE AREA. IN PURSUANCE**  
29 **THEREOF, WHERE AN ELECTRIC COOPERATIVE PARTICIPATES IN A BID ON**  
30 **AN EXISTING GENERATING FACILITY, ITS QUALIFIED BID SHALL BE GIVEN**  
31 **PREFERENCE IN CASE OF A TIE; PROVIDED, HOWEVER, THAT IN CASES**  
32 **WHERE THERE IS NO OTHER QUALIFIED BIDDER, THE BIDDING SHALL**  
33 **REMAIN VALID AS BASIS FOR THE DETERMINATION OF THE FINAL AWARD;”**

34 XXX XXXXXX

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

1           **“SEC. 26-A. INDEPENDENCE OF THE BOARD OF DIRECTORS AND**  
2 **OFFICERS OF ELECTRIC COOPERATIVES.— TO ENSURE THE LONG-TERM**  
3 **BUSINESS AND ECONOMIC VIABILITY OF ELECTRIC COOPERATIVES, THE**  
4 **MANAGEMENT, OPERATIONS AND STRATEGIC PLANNING OF ELECTRIC**  
5 **COOPERATIVES SHALL, AS MUCH AS PRACTICABLE, BE INSULATED FROM**  
6 **LOCAL POLITICS.**

7           **TOWARDS THIS END, NO PERSON SHALL BE ELECTED OR APPOINTED**  
8 **AS AN OFFICER OR BE ELIGIBLE TO RUN AS A BOARD MEMBER OF AN**  
9 **ELECTRIC COOPERATIVE IF:**

10           **(A) SUCH PERSON OR HIS OR HER SPOUSE HOLDS ANY PUBLIC**  
11 **OFFICE;**

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

14           **(C) SUCH PERSON HAS BEEN CONVICTED BY FINAL JUDGMENT OF A**  
15 **CRIME INVOLVING MORAL TURPITUDE;**

16           **(D) SUCH PERSON HAS BEEN TERMINATED FOR CAUSE FROM PUBLIC**  
17 **OFFICE OR PRIVATE EMPLOYMENT;**

18           **(E) SUCH PERSON IS RELATED TO ANY MEMBER OF THE EC BOARD**  
19 **OF DIRECTORS, GENERAL MANAGER AND DEPARTMENT MANAGERS**  
20 **WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY;**

21           **(F) SUCH PERSON IS A REPRESENTATIVE OF A JURIDICAL PERSON;**  
22 **AND**

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

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

30           **“SEC. 26-B. FIT AND PROPER RULE.— TO ENSURE THAT THE**  
31 **MANAGEMENT AND OPERATIONS OF ELECTRIC COOPERATIVES ARE**  
32 **CARRIED OUT WITH DUE REGARD TO ITS ECONOMIC VIABILITY, THE NEA**  
33 **SHALL PRESCRIBE, PASS UPON AND REVIEW THE QUALIFICATIONS AND**  
34 **DISQUALIFICATIONS OF INDIVIDUALS APPOINTED OR ELECTED TO**  
35 **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 DIRECTOR  
6     OR OFFICER OF THE ELECTRIC COOPERATIVE SHALL BE AS FOLLOWS:

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

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

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

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

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

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

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

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

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

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

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

36          (b) If the proposition for the conversion and the proposed articles of conversion, with any  
37    amendments, are approved by the affirmative vote of not less than two-thirds of the total votes  
38    cast thereon by members at such meeting, and/or, if such corporation is a stock corporation or

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

17 **"SEC. 32. REGISTRATION OF ALL ELECTRIC COOPERATIVES.— ALL**  
18 **ELECTRIC COOPERATIVES MAY CHOOSE TO REMAIN AS A NON-STOCK, NON-**  
19 **PROFIT COOPERATIVE OR CONVERT INTO AND REGISTER AS: (A) A STOCK**  
20 **COOPERATIVE UNDER THE COOPERATIVE DEVELOPMENT AUTHORITY**  
21 **(CDA); OR (B) A STOCK CORPORATION UNDER THE SECURITIES AND**  
22 **EXCHANGE COMMISSION SEC), IN ACCORDANCE WITH THE GUIDELINES TO**  
23 **BE INCLUDED IN THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF**  
24 **THIS ACT.**

25 **SUCH CHOICE SHALL CARRY WITH IT THE ATTENDANT**  
26 **REQUIREMENTS OF COMPLIANCE WITH THE LAWS AND REGULATORY**  
27 **GUIDELINES GOVERNING THE RESPECTIVE GOVERNMENT AGENCIES**  
28 **HAVING JURISDICTION OVER THEIR REGISTRATION.**

29 **REGARDLESS OF THE CHOICE MADE, THE NEA SHALL HAVE THE**  
30 **AUTHORITY OVER ELECTRIC COOPERATIVES, WHETHER STOCK OR NON-**  
31 **STOCK, WITH RESPECT TO THE SUBMISSION OF REPORTORIAL**  
32 **REQUIREMENTS AS MAY BE NECESSARY RELATIVE TO THEIR OPERATIONS**  
33 **AS ELECTRIC DISTRIBUTION UTILITIES, INCLUDING BUT NOT LIMITED TO:**

34 **(A) MONTHLY FINANCIAL AND STATISTICAL REPORT (MFSR);**

35 **(B) MONTHLY SEPARATE MFSR, MONTHLY ENGINEERING REPORT**  
36 **(MER) AND BARANGAY AND SITIO ELECTRIFICATION REPORT FOR ECs ON**  
37 **GRID WITH ISOLATED AREA/S SERVED BY NPC-SPUG;**

1 (C) MONTHLY STATUS OF BARANGAY AND SITIO ENERGIZATION AND  
2 HOUSE CONNECTIONS;

3 (D) MONTHLY INSTITUTIONAL SERVICES DEPARTMENT (ISD)  
4 REPORT;

5 (E) MONTHLY PERFORMANCE STANDARD MONITORING REPORT  
6 (PSMR);

7 (F) MONTHLY SUMMARY OF COMPLAINTS RECEIVED AND ACTED  
8 UPON;

9 (G) MONTHLY REPORT ON COMPLIANCE WITH THE GRID  
10 AND DISTRIBUTION CODE;

11 (H) MONTHLY ENGINEERING REPORT (MER);

12 (I) QUARTERLY REPORT ON POWER SUPPLY CONTRACTS;

13 (J) ANNUAL WORKPLAN;

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

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

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

17 (N) AUDITED FINANCIAL STATEMENTS;

18 (O) ANNUAL COLLECTIVE BARGAINING AGREEMENT (CBA) OR  
19 COLLECTIVE NEGOTIATION AGREEMENT (CNA);

20 (P) COPY OF CAPITAL EXPENDITURE (CAPEX) AND OPERATING  
21 EXPENDITURE (OPEX) PLANS.

22 LIKEWISE, THE SUPERVISORY AND OVERSIGHT FUNCTIONS OF THE  
23 NEA, AS MAY BE DETAILED IN THIS ACT AND ITS IRR, SHALL BE APPLICABLE  
24 TO BOTH STOCK AND NON-STOCK COOPERATIVES.

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

27 EXISTING ELECTRIC COOPERATIVES MAY LIKEWISE OPT TO  
28 REGISTER AS STOCK CORPORATIONS WITH THE SECURITIES AND  
29 EXCHANGE COMMISSION; *PROVIDED, HOWEVER,* THAT ELECTRIC  
30 COOPERATIVES REGISTERED WITH THE SECURITIES AND EXCHANGE  
31 COMMISSION SHALL NO LONGER ENJOY THE INCENTIVES PROVIDED FOR IN  
32 THIS ACT.

33 DESPITE THE REGISTRATION OF THE ELECTRIC COOPERATIVES  
34 UNDER THE CDA OR SEC, THE NEA SHALL RETAIN ITS SUPERVISORY AND  
35 DISCIPLINARY POWER OVER THEM IN THE CONDUCT OF ITS OPERATION AS  
36 ELECTRIC DISTRIBUTION UTILITIES.”



1 JURIDICAL PERSON, THE PENALTY HEREIN PRESCRIBED SHALL BE  
2 IMPOSED UPON THE OFFICIAL AND/OR EMPLOYEE THEREOF  
3 RESPONSIBLE FOR THE VIOLATION; *PROVIDED, FURTHER*, THAT IF THE  
4 VIOLATION IS COMMITTED BY A GOVERNMENT OFFICIAL OR EMPLOYEE,  
5 INCLUDING THOSE IN GOVERNMENT-OWNED OR -CONTROLLED  
6 CORPORATIONS, SUCH PERSON SHALL, IN ADDITION TO THE PENALTY  
7 PROVIDED HEREIN, BE SUBJECTED TO ADMINISTRATIVE DISCIPLINARY  
8 ACTION.”

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

11 “SEC. 64-B. *CONGRESSIONAL OVERSIGHT.* – UPON THE EFFECTIVITY  
12 OF THIS ACT, THE JOINT CONGRESSIONAL POWER COMMISSION CREATED  
13 UNDER SECTION 62 OF REPUBLIC ACT NO. 9136 SHALL EXERCISE  
14 OVERSIGHT POWERS OVER THE IMPLEMENTATION OF THIS ACT.”

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

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

21 SEC. 18. *Repealing Clause.*– Any provision of law, presidential decree, executive order,  
22 or rules and regulations inconsistent with the provisions of this Act or with the rules and  
23 regulations issued pursuant thereto is hereby repealed or modified accordingly.

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

26 Approved,