



Republic of the Philippines  
**DEPARTMENT OF ENERGY**

DEPARTMENT CIRCULAR NO. DC 2013 - 07 - 0015

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**PRESCRIBING THE IMPLEMENTING RULES AND REGULATIONS OF  
REPUBLIC ACT NO. 10531, OTHERWISE KNOWN AS THE "NATIONAL  
ELECTRIFICATION ADMINISTRATION REFORM ACT OF 2013"**

Pursuant to Section 16 of Republic Act No. 10531, otherwise known as the "National Electrification Administration Reform Act of 2013," hereinafter referred to as the "Act," the Department of Energy (DOE), in coordination with the National Electrification Administration (NEA) and Cooperative Development Authority (CDA) and in consultation with the Electric Cooperatives (ECs), the electric power industry participants, relevant government agencies, non-government organizations and other stakeholders, hereby issues, adopts and promulgates the following rules and regulations implementing the provisions of the Act.

**RULE I.  
GENERAL PROVISIONS,  
TITLE AND SCOPE, DECLARATION OF POLICY  
AND DEFINITION OF TERMS**

**Section 1. Title.** These rules and regulations shall be referred to as the "Implementing Rules and Regulations (IRR) of the Act."

**Section 2. Scope.** This IRR shall provide the framework for the implementation of the structural reforms of the NEA and the ECs in pursuit of the country's total electrification in an accelerated and sustainable manner and such other objectives of the Act.

**Section 3. Declaration of Policy.** It is hereby declared the policy of the State to:

- a) Promote the sustainable development in the rural areas through rural electrification;
- b) Empower and strengthen the NEA to pursue the electrification program and bring electricity, through the ECs as its implementing arm, to the countryside even in missionary or economically unviable areas; and
- c) Empower and enable the ECs to cope with the changes brought about by the restructuring of the electric power industry pursuant to Republic Act No.

9136, otherwise known as the "Electric Power Industry Reform Act of 2001" or "EPIRA."

**Section 4. Definition of Terms.** For the purpose of this IRR, the following terms are defined as follows:

- a) "*Act*" refers to Republic Act No. 10531, otherwise known as the "National Electrification Administration Reform Act of 2013;"
- b) "*Barangay*" refers to the basic political unit as defined under Republic Act No. 7160, otherwise known as the "Local Government Code of 1991;"
- c) "*Cooperative Code*" refers to Republic Act No. 9520, otherwise known as the "Philippine Cooperative Code of 2008;"
- d) "*Cooperative Development Authority*" or "*CDA*" refers to the government entity created under Republic Act No. 6939;
- e) "*Corporation Code*" refers to Batas Pambansa Bilang 68, otherwise known as the "Corporation Code of the Philippines;"
- f) "*Department of Energy*" or "*DOE*" refers to the Government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the EPIRA and Republic Act No. 9513 otherwise known as the "Renewable Energy Act of 2008;"
- g) "*Electric Cooperative*" or "*EC*" refers to an electric distribution utility organized and registered pursuant to Presidential Decree No. (PD) 269, as amended, Republic Act No. 9520, and other related laws;
- h) "*Energy Regulatory Commission*" or "*ERC*" refers to the independent quasi-judicial regulatory body created under the EPIRA;
- i) "*EPIRA*" refers to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001;"
- j) "*Generating Facility*" refers to a facility for the production of electricity;
- k) "*Grid*" refers to the high voltage backbone system of interconnected transmission lines, substations and related facilities, located in each of Luzon, Visayas, Mindanao, or as may otherwise be determined by the ERC in accordance with Section 45 of the EPIRA;

- l) *"Missionary Electrification"* refers to the provision of basic electricity service in unviable areas with the ultimate aim of bringing the operations of these areas to viability levels;
- m) *"National Electrification Administration"* or *"NEA"* refers to the Government agency created under PD 269, as amended by PD 1645 and Republic Act No. 10531 with additional mandate set forth in the EPIRA;
- n) *"Securities and Exchange Commission"* or *"SEC"* refers to the Government agency created under Commonwealth Act No. 83, as amended;
- o) *"Small Power Utilities Group"* or *"SPUG"* refers to the functional unit of National Power Corporation (NPC) created to pursue missionary electrification;
- p) *"Stock Cooperative"* refers to an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required and accepting a fair share of the risk and benefits of the undertakings in accordance with the universally accepted cooperative principles as defined under Republic Act No. 9520; and
- q) *"Stock Corporation"* refers to an artificial being created by operation of law, with capital stock divided into shares, and authorized to distribute to its Shareholders' dividends out of its surplus profits, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence.

## RULE II.

### THE NATIONAL ELECTRIFICATION ADMINISTRATION

**Section 5. Powers, Functions and Privileges of the NEA.** The supervisory and oversight functions of the NEA, as detailed in the Act and this IRR, shall be applicable to both stock and non-stock ECs.

Pursuant to Section 4 of PD 269, as amended by the Act, the NEA, in order to strengthen the ECs, shall help them become economically viable and prepare them for the implementation of retail competition and open access pursuant to Sections 31 of the EPIRA, is authorized and empowered to:

- a) Have a continuous succession under its corporate name until otherwise provided by law;
- b) Adopt and use a seal and alter it at its pleasure;

- c) Sue and be sued in any court: *Provided, That the NEA shall, unless it consents otherwise, be immune to suits for acts ex delicti;*
- d) Make contracts of every name and nature and execute all instruments necessary or convenient for the carrying on of its business;
- e) Supervise the management and operations of all ECs;
- f) Exercise step-in rights as defined in Rule IV of this IRR;
- g) Provide institutional, financial and technical assistance to ECs upon request of the ECs;
- h) Pursue the total electrification of the country through the ECs by way of enhancing distribution development and, in case of missionary areas, shall be done in coordination with the NPC-SPUG which shall be responsible for the generation and transmission requirements, as necessary;
- i) Devote all returns from its capital investments to attain the objectives of the Act;
- j) Ensure the economic and financial viability and operation of all ECs;
- k) Restructure ailing ECs with the end in view of making them economically and financially viable;
- l) Develop, set and enforce institutional and governance standards for the efficient operation of ECs such as, but not limited to, the observance of appropriate procurement procedure, including transparent and competitive bidding. Such standards shall be enforced through a mechanism of incentives and disincentives to complying and non-complying ECs, respectively;
- m) Formulate and impose administrative sanctions and penalties and when warranted, file criminal cases against those who are found in violation of any of the provisions of the Act and this IRR;
- n) Serve as guarantor to qualified ECs in their transactions with various parties such as, but not limited to, co-signing in power supply contracts. For this purpose a guarantee fund shall be established which will come from the equity releases based on the NEA's authorized capital stock under Section 5 of the Act;
- o) Grant loans to ECs, for the construction or acquisition, operation and maintenance of sub-transmission and distribution facilities and all related

properties, equipment, machinery, fixtures, and materials for the purpose of supplying area coverage service, and thereafter to grant loans for the restoration, improvement or enlargement of such facilities or for such other purposes as may be deemed necessary;

- p) Subject to the prior approval and/or opinion of the Monetary Board, borrow funds from any source, private or government, foreign or domestic, and secure the lenders thereof by pledging, sharing or subordinating one or more of the NEA's own loan securities;
- q) Exercise primary and exclusive jurisdiction in the adjudication of complaints against EC officers, election disputes and all matters relating to the effective implementation of the provisions of the Act;
- r) As a quasi-judicial agency, deputize local law enforcement agencies to enforce or implement its orders or decisions, with the power to cite for contempt any party or witness to any case before it for contumacious conduct; and
- s) Exercise such powers and do such things as may be necessary to carry out the business and purposes for which the NEA was established, or which from time to time may be declared by the Board of Administrators as necessary, useful, incidental or auxiliary to accomplish such purposes.

The NEA shall ensure that all ECs comply with the timely submission of the reportorial requirements set forth in this IRR. For this purpose, the NEA shall prepare monthly and quarterly assessment reports on the abovementioned information. Said reports shall be submitted by the NEA to the DOE and the Joint Congressional Power Commission (JCPC) together with its recommended policies to attain the objectives of the Act.

For this purpose, the authorized capital stock of the NEA is hereby increased to Twenty-five billion pesos (P25,000,000,000.00) divided into two hundred fifty million (P250,000,000) shares with a par value of One hundred pesos (P100.00).

**Section 6. Supervisory Powers of the NEA over ECs.** Pursuant to Section 4-A of PD 269, as amended by the Act, in the exercise of its power of supervision over the ECs, the NEA shall have the following additional powers:

- a) Issue orders, rules and regulations, *motu proprio* or upon petition of third parties, to conduct investigations, referenda and other similar actions on all matters affecting the ECs;
- b) Issue preventive or disciplinary measures including, but not limited to, suspension or removal and replacement of any or all of the members of the board of directors and officers of the EC, as the NEA may deem fit and

necessary and to take any other remedial measures as the law or any agreement or arrangement with the NEA may provide, to attain the objectives of the Act; and

- c) Appoint independent board of directors in the EC.

The NEA shall, in the exercise of its supervisory and disciplinary powers under the Act, strictly observe due process of law.

**Section 7. Jurisdiction of the NEA over Administrative Cases.** The NEA in the exercise of its quasi-judicial functions, shall have primary and exclusive jurisdiction over the following administrative cases:

- a) Cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA's exercise of its *motu proprio* powers as provided in Section 6 of the Act. For the purpose of this section, the ECs officers referred to shall be the following:
  - i. Members of the Board of Directors;
  - ii. General Manager;
  - iii. Department Managers;
  - iv. Sub-Office Area Managers;
  - v. Members of the Bids and Awards Committee; or
  - vi. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.
- b) Election disputes involving any elective officer of an EC; and
- c) Cases or disputes involving any matter relating to the effective implementation of the provisions of the Act.

**Section 8. Step-In Rights in Cases of Ailing ECs.** Consistent with Section 4-B of PD 269, as amended by the Act and Rule IV of this IRR, the NEA shall be guided by the following:

- a) The NEA shall immediately step-in and take over from its Board the operations of any ailing EC. Within one hundred eighty (180) days after takeover, the NEA may convert the ailing EC to either a stock cooperative registered with the CDA or a stock corporation registered with the SEC;
- b) The NEA shall, in determining the propriety of the conversion, be guided by the ability of the member-consumers of said EC to pay for their shares in the stock cooperative or stock corporation; and
- c) The NEA may appoint or assign third persons to the Board of the EC until the NEA decides that the election of a new board of directors to manage the EC is

necessary. The NEA may create a management team for the purpose: *Provided*, That the NEA shall call for the election of a new set of board of directors within ninety (90) days from the exercise of the step-in rights.

**Section 9. Injunction or Temporary Restraining Order.** Pursuant to PD 269, as amended by Sections 3, 5 and 7 of PD 1645 and further amended by the Act, no injunction or temporary restraining order shall be issued against the implementation of any order, ruling or decision of the NEA, whether in the exercise of its quasi-judicial, rule making, supervisory powers or oversight functions, except by the Court of Appeals, and only upon the posting of a bond sufficient to cover the liabilities and expenditures arising during the pendency of the writ or injunction or temporary restraining order: *Provided*, That the injunction shall only be effective for a period not exceeding sixty (60) days.

### RULE III. THE ELECTRIC COOPERATIVES

**Section 10. Mandates, Powers, Functions and Privileges of ECs.** In addition to the mandates, powers, functions, and privileges accorded to ECs under the EPIRA and its IRRs, and pursuant to Section 16(j) of PD 269, as amended by the Act, the ECs are hereby empowered to:

- a) To construct, acquire, own, operate and maintain electric sub-transmission and distribution lines along, upon, under and across publicly owned lands and public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges and causeways. In the event of the need of such lands and thoroughfares for the primary purpose of the government, the EC shall be properly compensated.

For this purpose, the DOE and the Department of Public Works and Highways (DPWH) shall, within one hundred eighty (180) days from the effectivity of this IRR, issue implementing rules and regulations to carry out the preceding section, consistent with the issuances of the ERC on cost recovery;

- b) To engage in power generation within its franchise area. For the purpose of clarity, the EC shall ensure the quality of electricity service consistent with the standards provided in the EPIRA and its IRR, the Philippine Grid Code, the Philippine Distribution Code, and other relevant laws and standards including environmental, health and safety standards. The engagement of any EC in the power generation business shall contribute to greater efficiency and lower cost of operations as a distribution utility. In the exercise of its mandate, any EC may engage in power generation business through any of the following:

- i. Construction of embedded generating facility in accordance with the cross ownership and market share limitations and standards set forth in the EPIRA and its IRRs, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws;
- ii. Acquisition of an existing generating facility from:
  - 1) Privately-owned generation facility;
  - 2) Government-owned generating facility in the main grid;
  - 3) For NPC-SPUG areas, an EC may participate in a bid on an existing NPC-SPUG generating facility and its qualified bid shall be given preference in case of a tie: *Provided, however,* That in cases where there is no other qualified bidder, the lone bid shall remain as valid basis for the determination of the final award subject to the following conditions:
    - A. bid offer is not lower than the valuation of the assets using Commission on Audit (COA) rules and regulations;
    - B. EC is prepared to fully take over the generation function of the area from the NPC-SPUG. For this purpose, the NEA and the EC concerned shall, in consultation with the NPC-SPUG, prescribe the parameters from which the full takeover date shall be determined.

The full takeover date refers to the date where the EC shall assume the ownership, operation and maintenance of the generating facility.

In the exercise of its oversight function over ECs, the NEA shall ensure that such takeover shall not adversely affect the viability of the EC as a distribution utility and shall redound to better services and least-cost supply for its captive market; and

- C. EC submits its graduation program from the Universal Charge for Missionary Electrification (UC-ME) subsidy.

For this purpose, the DOE shall, in consultation with the ERC, develop a graduation policy for the availment of the UC-ME subsidy.



- iii. Generate electricity through lease and/or rental of a generating facility for purposes of supplying its franchise area requirement in the least-cost manner.

Any EC that opts to engage in power generation business shall include such plan and activities in its annual Distribution Utility Development Plan (DDP), duly approved and endorsed by the NEA.

The EC shall submit a monthly report on the operations and performance of its generating facility/ies to the DOE, the ERC and the NEA not later than the 15th day of the succeeding month.

- c) Explore the option of forming a consortium or partnership among ECs, which have contiguous franchise areas or share a common sub-transmission line, in order to become financially and technically capable to engage in the business of generation of electricity supply.

**Section 11. Registration of ECs.** Pursuant to Section 32 of PD 269, as amended by the Act, the following shall govern the registration of ECs:

- a) All ECs may choose to remain as a non-stock, non-profit cooperative or convert into and register as:
  - i. Stock cooperative under the CDA; or
  - ii. Stock corporation under the SEC, in accordance with the guidelines in this IRR.

Such choice shall carry with it the attendant requirements of compliance with the laws and regulatory guidelines governing the respective government agencies having jurisdiction over their registration.

- b) Regardless of the choice made, the NEA shall have the authority over the ECs, whether stock or non-stock, to require the submission of reportorial requirements as may be necessary relative to their operations as electric distribution utilities including, but not limited to:
  - i. Monthly Financial and Statistical Report (MFSR);
  - ii. Monthly status of barangay and *sitio* energization and house connections;
  - iii. Monthly Institutional Services Department (ISD) Report;
  - iv. Monthly Performance Standard Monitoring Report (PSMR);

- v. Monthly summary of complaints received and acted upon;
  - vi. Monthly report on compliance with the Philippine Grid and Distribution Codes;
  - vii. Monthly Engineering Report;
  - viii. Quarterly report on power supply contracts;
  - ix. Annual work plan;
  - x. Annual Distribution Development Plan (DDP);
  - xi. Five (5)-year investment plan submitted annually;
  - xii. Annual Cash Operating Budget (COB);
  - xiii. Audited financial statements;
  - xiv. Collective Bargaining Agreement (CBA) or Collective Negotiation Agreement (CNA); and
  - xv. Copy of Capital Expenditure (CapEx) and Operating Expenditure (OpEx) plans; and
  - xvi. For ECs on grid with isolated area/s served by the NPC-SPUG, separate submission of MFSR, Monthly Engineering Report and barangay and *sitio* electrification report.
- c) In the event that an EC opts to register with the CDA, it shall continue to enjoy the benefits provided for under the Act;
  - d) Existing ECs may likewise opt to register as stock corporations with the SEC: *Provided, however,* That ECs registered with the SEC shall no longer enjoy the incentives provided for in the Act;
  - e) Despite the registration of the ECs under the CDA or the SEC, the NEA shall retain its supervisory and disciplinary power over them in the conduct of its operation as electric distribution utilities.

**Section 12. Governance Structure of ECs.** In compliance with Section 26 of PD 269, as amended by the Act, the independence of the Board of Directors and Officers of ECs is hereby prescribed.

To ensure the long-term business and economic viability of ECs, the management, operations and strategic planning of ECs shall, as much as practicable, be insulated from local politics.

**Section 13. Board of Directors.** The Board of Directors is the collegial body composed of representatives elected from each district to promulgate policies, rules and regulations necessary for the viable operation of the EC and the exercise of its corporate power.

**Section 14. Qualifications of a Director and Officer.** Pursuant to Section 26-B of PD 269, as amended by the Act, a candidate's integrity, experience, education, competence and probity shall be considered in determining whether he/she shall be fit and proper to become a director or officer of the EC. For this purpose, the minimum qualifications of a director or officer of the EC shall be as follows:

- a) He or she is a Filipino citizen;
- b) He or she is a graduate of a four (4)-year course;
- c) He or she should at least be twenty-one (21) years old and not over seventy (70) years old on the date of election;
- d) He or she is of good moral character;

For purposes of this IRR, good moral character may be established with the submission of a certificate issued by any of the following:

- i. Barangay where the candidate resides;
  - ii. National Bureau of Investigation;
  - iii. Philippine National Police; or
  - iv. Leader of the religious sect where the candidate is affiliated.
- e) He or she is a member of the EC in good standing for the last five (5) years immediately preceding the election or appointment and shall continue to be a member in good standing during his or her incumbency;

For purposes of this IRR, a member of good standing shall mean that said member:

- i. must have no unsettled or outstanding obligations to the cooperative during his membership in the cooperative whether personal or through commercial or industrial connections of which he or she is the owner/co-owner;

An unsettled or outstanding obligation is an account which has not been paid within seven (7) days after the due date. For incumbent member of the Board who will seek re-election, unsettled or outstanding obligation includes power bills, cash advances, disallowances (including NEA audit findings) and materials and equipment issuances. At any given time during his membership in the cooperative, he or she must be totally free of any unsettled or outstanding indebtedness and/or disallowances with the EC.

- ii. has not been apprehended for electric pilferage;

A mere apprehension of electric pilferage by the EC, even without conviction for such offense by any court, shall be a valid ground for disqualification. The word "apprehension" should be taken in the strict context as used in Republic Act No. 7832, otherwise known as "Anti-Electricity and Electric Transmission Lines or Materials Pilferage Act of 1994," which means that a person is caught in *flagrante delicto* for violating the provision of the said Act;

- iii. has not been removed for cause as director or an employee from any EC;

In general, removal or termination of service from the EC is caused by a grave offense or violation/s of policies, rules and regulations. A former director or employee with a record of termination/removal for cause from public office or for just cause as defined in Article 282 of the Labor Code as amended, shall not be qualified to be elected or appointed as director of an EC.

- f) He or she is an actual resident and consumer in the district that he or she seeks to represent for at least two (2) years immediately preceding the election; and
- g) He or she has attended at least two (2) Annual General Membership Assemblies (AGMA) for the last five (5) years immediately preceding the election or appointment.

**Section 15. Disqualifications of a Director and Officer.** Pursuant to Section 26-B of PD 269, as amended by the Act, any person shall be ineligible to be elected or be appointed as member of the board of directors or officers of an EC if:

- a) Such person or his or her spouse holds any public office. For the purpose of disqualification, a person holding an elective position or an appointive position with a salary grade of sixteen (SG 16) or higher or its equivalent shall

not be eligible to be elected as member of the Board of Directors or Officers of an EC;

- b) Such person or his or her spouse has been a candidate in the last preceding local or national elections;
- c) Such person has been convicted by final judgment of a crime involving moral turpitude;
- d) Such person has been terminated from public office/government employment or private employment for just cause as defined in Article 282 of the Labor Code.

For this purpose, termination from public office shall mean removal;

- e) Such person is related within the fourth civil degree of consanguinity or affinity to any member of the EC Board of Directors, Department Manager, NEA-appointed Project Supervisor (PS) or Acting General Manager (AGM) and its equivalent or higher position; and
- f) Such person is employed by or has financial interest in a competing enterprise or a business selling electric energy or electrical hardware to the cooperative or doing business with the EC including, but not limited to, the use or rental of poles.

For purposes of this IRR, "*doing business*" shall refer to the transactions related to the core or main line of business of the EC, which is conveyance of electricity through its distribution facilities.

**Section 16. Continuing Qualification Requirement.** To ensure that the management and operations of the ECs are carried out with due regard to its economic viability, the NEA shall prescribe, pass upon and review the qualifications and disqualifications of individuals appointed or elected as EC director or officer and disqualify those found unfit.

An EC director or officer, in order to remain as such, must continue to possess all the qualifications and none of the disqualifications throughout his/her term or tenure of office.

The foregoing continuing qualifications shall not apply to the following:

- a) General Manager; and
- b) Project Supervisor and/or Independent Director.

**Section 17. Suspension or Removal of a Director or Officer.** The NEA may, after due notice to the Board of Directors and Officers of the EC, disqualify, suspend or remove any Director or Officer, who commits any act which renders him or her unfit for the position in accordance with the standards of Sections 26-A and 26-B of PD 269, as amended by the Act.

The proceedings herein may be undertaken *motu proprio* or through a complaint initiated against the Director or Officer.

**Section 18. Incentives of ECs.** Consistent with Section 32-A of PD 269, as amended by the Act, ECs which comply with the financial and operational standards set by the NEA shall enjoy the following incentives:

- a) To be entitled to congressional allocations, grants, subsidies and other financial assistance for rural electrification: *Provided*, That the subsidy shall not include UC-ME provided for in Section 34(b) of the EPIRA;
- b) To receive all subsidies, grants and other assistance which shall form part of the donated capital and funds of the EC: *Provided*, That such donated capital and funds shall not be sold, traded nor divided into share holdings at any time. These donated capital and funds shall be appraised and valued for the sole purpose of determining the equity participation of the members: *Provided*, That in case of dissolution or conversion of the EC, said donated capital and funds shall be subject to escheat; and
- c) To avail of the preferential rights granted to cooperatives under Republic Act No. 7160, otherwise known as the "Local Government Code of 1991," and other related laws. For this purpose, the DOE and the Department of Finance (DOF) through the Bureau of the Local Government - Finance (BLGF) shall draft within one hundred eighty (180) days from the effectivity of this IRR, the applicable guidelines for this purpose.

As a further incentive, the NEA may prioritize the grant of incentives in favor of the ECs that are managed effectively and efficiently and comply consistently with its mandates and directives.

#### **RULE IV. NEA STEP-IN RIGHTS**

**Section 19. Obligations of NEA.** To carry out its expanded mandate and to ensure that the ECs are financially viable and able to meet the operational and financial standards and take preventive measures, the NEA shall have the following obligations:

- a) To develop standards and protocols for the efficient operations of the ECs, which shall consider the following:
  - i. Observance of appropriate procurement procedures, including transparent and competitive bidding;
  - ii. Financial, Operational, Institutional and Governance Standards;
  - iii. Incentives for compliant ECs including options for conversion to stock cooperative under the CDA or stock corporation under the SEC;
  - iv. Fines and Penalties for non-compliant ECs;
  - v. Timelines and Procedures for Enforcement and Monitoring;
  - vi. Audit; and
  - vii. Reportorial Requirements for the ECs as set forth in this IRR.
- b) To develop financial and operational parameters to serve as triggers for intervention of the NEA in the EC operations at least one (1) year prior to being categorized as ailing EC: *Provided*, That the obligations as set forth in paragraphs (a) and (b) of this section, shall be developed within sixty (60) days from the issuance of this IRR and shall be approved by the DOE: *Provided further*, That subsequent amendments thereto shall likewise be approved by the DOE;
- c) To evaluate and categorize ECs based on standards set with due consideration to the ailing ECs;
- d) To enforce performance standards and submit quarterly compliance report to the DOE and JCPC which shall include summary of compliance to key performance standards and recommendation for rehabilitation or takeover in case of ailing ECs;
- e) To protect the interest of the member-consumers and the public in general, the NEA shall have the right to intervene to ensure rehabilitation, financial turn-around and viability of ailing ECs;
- f) To create a NEA rehabilitation team to assist the ailing ECs improve its financial and technical conditions. The rehabilitation team shall, among others:
  - i. Monitor list and status of ailing ECs;

- ii. Recommend action plans for the recovery of the ailing EC which may include the following:
  - 1. Convert the ailing EC to either stock cooperative registered with the CDA or stock corporation registered with the SEC: *Provided*, That such conversion shall be guided by the ability of the member-consumers of said EC to pay for their shares in the stock cooperative or stock corporation;
  - 2. Appoint or assign third persons to the Board of the EC until the NEA decides that the election of a new board of directors to manage the EC is necessary. The NEA may create a management team for the purpose; and
  - 3. Provide for the settlement of outstanding obligations with generating companies and power suppliers/sources of electricity, the TransCo or its Concessionaire and related creditors, if any.

In the exercise of its step-in rights, the NEA shall strictly observe due process of law.

- iii. Recommend alternative options to ensure the rehabilitation of the ailing EC which may include private sector participation; and
- iv. Prepare a report on the implementation of the rehabilitation plan for submission to the DOE and JCPC.

**Section 20. Ailing ECs.** In accordance with the standards set under this IRR, the NEA may declare an EC as an "Ailing EC" when such EC falls under any of the following circumstances:

- a) Has negative Net Worth for the last three (3) years. For this purpose, "*Negative Net Worth*" shall mean as the financial condition of an EC in which its liabilities are greater than its assets;
- b) Has accumulated ninety (90) days arrearages in power supply purchases from generating companies and power suppliers/sources of electricity, and the transmission charges by the TransCo or its Concessionaire;
- c) Unable to provide electric service due to technical and/or financial inefficiencies including, but not limited to, high systems loss, low collection efficiency, below standard current ratio, operating loss, huge liabilities and/or institutional problems such as governance, and non-adherence to NEA and EC policies;



- d) Unable to efficiently perform its electric distribution utility obligations or continue in business due to organizational, external and internal factors;
- e) When an EC has failed to meet other operational standards established by NEA; and
- f) Unable to set up or continuously support its Wholesale Electricity Spot Market prudential requirements.

The NEA shall, within sixty (60) days from the effectivity of this IRR, submit a set of standards to determine the classification of the ECs guided by the parameters of this IRR: *Provided*, That the NEA shall classify the ECs based on the standards mentioned in the preceding sentence: *Provided further*, That the classification shall serve as the baseline and/or benchmark of the particular EC.

**Section 21. NEA's Exercise of Step-In Rights.** The NEA shall immediately exercise its step-in rights over an ailing EC through the following:

- a) Appoint or assign a PS or AGM or assign third persons to the Board of the EC until the NEA decides that the election of a new Board of Directors to lead the EC is necessary. The NEA may also create a Management Team for the purpose.
- b) In case of organizational and/or internal conflicts as provided under circumstances in this IRR, the NEA shall give the CDA or other appropriate government agency where the EC is legally registered, the opportunity to resolve or take remedial measures without prejudice to the exercise of its step-in rights.
- c) May enter into partnership with a qualified private sector investor, under any of the following frameworks:
  - i. Joint Venture;
  - ii. Investment Management Contract;
  - iii. Management Contract;
  - iv. Operations and Maintenance Contract;
  - v. Special Equipment and Materials Lease Agreement;
  - vi. Concession;
  - vii. Merger and Consolidation; and

viii. Other variants deemed applicable to the EC.

For this purpose, the NEA is hereby constituted as the agent of the concerned EC.

- d) If within a reasonable period, not exceeding one hundred eighty (180) days from its takeover, the NEA determines that such EC is unable to continue its operation in the ordinary course of business, it may:
- i. Initiate structural reforms such as conversion of the ailing EC to either a Stock Cooperative registered with the CDA or a Stock corporation registered with the SEC; or
  - ii. Institute appropriate legal actions such as Extra-judicial Foreclosure and Insolvency (Voluntary/Involuntary) and Bankruptcy proceedings, without prejudice to the right of the creditors.

#### **RULE V. CONVERSION OF ELECTRIC COOPERATIVES**

**Section 22. Conversion of ECs.** Consistent with Section 32 of PD 269, as amended by the Act, any EC may choose to remain as a non-stock, non-profit cooperative or, in accordance with the conversion guidelines set in this IRR, convert into and register as:

- a) A stock cooperative under the CDA; or
- b) A stock corporation under the SEC.

**Section 23. Conversion Guidelines.** The NEA shall, in determining the propriety of the conversion, be guided by the ability of the member-consumers of the said EC to pay for their shares in the stock cooperative or stock corporation. Specifically, the conversion shall adhere to the following:

- a) Compliance by the EC to the standards to be set by NEA pursuant to this IRR;
- b) ECs conduct, in coordination with the NEA, of a massive information-education and communication (IEC) campaign in the district level within the EC's coverage area, on the importance of the Act and the IRR including rights, duties and obligations of an EC whether stock or non-stock, incentives and disincentives, options and effects of the ECs' conversion and the authority and responsibilities of NEA over the ECs;

- c) ECs conduct of consultation with its bona fide member-consumers on whether to convert or not, through series of district meetings, which shall be undertaken in the following manner:
- i. Simultaneously, where the meetings or consultations are held on the same day at various venues (barangay); or
  - ii. Sequentially, where the meetings or consultations are held one after the other in different venues (barangays).
- d) In the conduct of consultations, the EC shall comply with the following:
- i. **Notice of Membership Meeting.** At least ten (10) days before the scheduled consultation/meeting, all the bona fide member-consumers in the district shall be notified through print and broadcast media. In addition, the complete information on the said meeting/consultation shall be mailed or delivered to the addresses of the member-consumers. Likewise, the said notice shall be posted in strategic places within the district;
  - ii. **Master list of Voters.** A sanitized master list of bona fide member-consumers entitled to vote in each district shall be prepared by the EC through its Institutional Services Department or equivalent department. Such list shall be the basis for determining the attendance or turn out of voters in each meeting held, whether simultaneous or sequential;
  - iii. **Required Number of Votes for Conversion.** The approval of at least a simple majority, or fifty per centum (50%) plus one (1), of all members entitle to vote of the EC, shall be considered a valid decision for conversion;
  - iv. **Voting System.** Each bona fide member-consumer shall be entitled to one (1) vote. The voting shall be done through secret balloting, and no proxy voting shall be allowed; and
  - v. **Over-all Decision.** The final decision on the issue on conversion, on whether or not the EC will convert, will be based on the majority decision, as culled from the result of the general assembly, or the cumulative result of the district meetings, as the case may be: *Provided*, That the conduct of referendum may only be conducted ten (10) years from the last conducted referendum.

**Section 24. Conversion Requirements.** In addition to the provisions of Republic Act No. 9520 and Batas Pambansa Bilang 68, the ECs must comply with the provisions of Sec. 7(c)(i) of Rule 7 of the IRR of the EPIRA.

**Section 25. Conversion Procedure and/or Mechanics.** The following shall guide the mechanics and/or procedures for the conversion provided in the preceding sections:

- a) The Board of Directors shall pass a Resolution scheduling the district/s, date/s, venue/s and time of the assembly/meetings. Likewise, the Board of Directors shall appropriate the corresponding budget for the program/activities;
- b) The concerned departments, spearheaded by the EC's Institutional Services Department shall prepare and execute the requirements set under the said resolution;
- c) In not less than twenty five (25) days before the General Assembly or District Meetings, the Institutional Services Department or its equivalent department shall prepare the Sanitized Master list of Voters in alphabetical order and classified according to barangays to facilitate registration and voting;
- d) The Board Member of the concerned district shall be responsible for ensuring the success of the assembly/referendum/meeting in the said district. Likewise, he shall preside in the district assembly meeting/s;
- e) There shall be a determination of attendance where only the bona fide member-consumers whose names are listed in the sanitized master list of voters prepared by the EC shall be allowed to vote;
- f) Where meetings are held simultaneously, as defined in this section, the total number of votes shall be determined on a cumulative basis;
- g) Where meetings are held sequentially, as defined in this section, the same procedure shall be followed;
- h) For all the meetings conducted regardless of the Procedure/Mechanics applied, the Presiding Officer shall introduce and present to the assembly the issues related to conversion, such as the following:
  - i. Historical profile of the EC;
  - ii. The advantages/disadvantages of each of the three options;
  - iii. Open Forum;
  - iv. Casting of votes;
  - v. Declaration of the results of voting by the Presiding Officer; and

- vi. Adjournment.
- i) Documentation requirements:
  - i. Preparation of the minutes of meeting indicating the highlights, particularly the over-all decision of the bona fide member-consumers whether to convert or not.
  - ii. Regardless of the results of the voting, a Certificate of Membership Decision to convert or not, indicating the over-all decisions of the bona fide member-consumers of the EC and certifying the truthfulness and veracity of the statements therein, shall be executed and attested on behalf of the EC by its Board President or Board Vice-President.

For the purpose of the foregoing, a bona fide member-consumer shall refer to a person who is a member-consumer in good standing who has met all the requirements set within the context of the ECs by-laws and has been listed/included in the Master list of voters, to have voting rights, under the one-member, one vote policy of the EC.

Within one hundred eighty (180) days from the effectivity of this IRR, the NEA shall cause the conduct of referenda of all remaining non-stock ECs and the ECs shall have decided and issued a Board Resolution on options to:

- a) Remain as non-stock, non-profit EC;
- b) Convert into stock cooperative under the CDA; or
- c) Convert into stock corporation under the SEC.

For monitoring purposes, the NEA shall submit to the DOE a quarterly report detailing the progress of the registration.

## RULE VI. TOTAL ELECTRIFICATION

In pursuit of the total electrification of the country, the NEA and all ECs shall electrify all remaining unelectrified households. In the case of missionary areas, the same shall be done in coordination with the NPC-SPUG which shall be responsible for the generation and transmission requirements, as necessary.

**Section 26. Total Electrification Plan.** Towards this end, the NEA shall, in consultation with the ECs or with NPC-SPUG, in case of missionary areas, develop within ninety (90) days from the effectivity of this IRR, a Total Electrification Plan (herein referred to as the Plan), which will detail among others:

- a) Time bound targets for the attainment of the individual electrification program in each of the ECs' franchise areas. For this purpose, the ECs are encouraged to adopt appropriate and least-cost technology;
- b) Financial requirements and sources of funds for project implementation; and
- c) Work program and schedules.

The NEA shall update and submit the Plan to the DOE, every fifteenth (15th) of March of each year: *Provided*, That such Plan shall be approved by the DOE, for implementation by the NEA and the ECs: *Provided further*, That the ERC shall provide the necessary regulatory support in recognizing the cost associated in providing missionary electrification.

## RULE VII. FINAL PROVISIONS

### **Section 27. Supervisory Powers of the DOE over the NEA.**

Consistent with Section 58 of EPIRA, the NEA shall continue to be under the supervision of the DOE, and shall comply with all reportorial requirements under this IRR and as may be deemed necessary by the DOE.

**Section 28. Penalties.** Pursuant to Section 14 of the Act, any person who willfully violates any rule or regulation promulgated pursuant to the authority granted in this IRR shall, upon conviction, be punished by a fine of not less than fifty thousand pesos (P50,000.00) but not more than five hundred thousand pesos (P500,000.00) or by imprisonment of not less than six (6) months but not more than one (1) year, or both, at the discretion of the court: *Provided*, That if the violation is committed by a juridical person, the penalty herein prescribed shall be imposed upon the official and/or employee thereof responsible for the violation: *Provided, further*, That if the violation is committed by a government official or employee, including those in government-owned or controlled corporations, such person shall, in addition to the penalty provided herein, be subjected to administrative disciplinary action.

**Section 29. Congressional Oversight.** To enhance the effectiveness of the JCPC in the exercise of its oversight function over the implementation of the Act, the Board of Administrators shall submit to the JCPC a semi-annual report on the initiatives and activities on rural electrification, including the supervision of the NEA over the ECs in the performance of their franchise obligations.

**Section 30. Transitory Clause.** Pursuant to the objectives of the Act of strengthening the ECs, the NEA shall, upon the instruction of the DOE, exercise the step-in rights for ailing ECs identified by the DOE, pending the issuance of the standards set forth

in Rule IV Section 20, of this IRR: *Provided*, That the NEA's exercise of step-in rights under this section shall be governed by Section 4-B of PD 269, as amended by the Act: *Provided further*, That the NEA shall takeover and exercise the powers provided in the Act over ECs that may be identified by the DOE as urgent and necessary to ensure public safety, security and welfare, such as but not limited to, the imminent threat of disconnection of electricity supply.

**Section 31. Separability Clause.** If any provision of this IRR is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

**Section 32. Effectivity.** This IRR shall take effect fifteen (15) days from its publication in at least two newspapers of general circulation and shall remain in effect until otherwise revoked.

Issued in Energy Center, Bonifacio Global City, Taguig City on **JUL 26 2013**

  
**CARLOS JERICHO L. PETILLA**  
Secretary



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