



HOUSE OF REPRESENTATIVES

H. No. 6214

BY REPRESENTATIVES FUENTEBELLA, PAEZ, PING-AY, AUMENTADO, BAGUILAT, BATOCABE, RIVERA, COJUANGCO (K.), APACIBLE, MENDOZA (M.), CABALUNA, CO, GARBIN, MERCADO (H.), GARIN (S.), MAGSAYSAY (E.), TY, MENDOZA (R.), RODRIGUEZ (R.), GULLAS, CALIMBAS-VILLAROSA, GUANLAO, JAAFAR, DE VENECIA, PANGANDAMAN (M.), BELMONTE (V.), SALIMBANGON, ARROYO (D.), LAPUS, MATUGAS, CELESTE, VERGARA, UNGAB, ANTONINO, DEL ROSARIO (A.G.), ABAD, ARAGO AND CERAFICA, PER COMMITTEE REPORT NO. 2191

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:

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

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

1 "CHAPTER I - Policy and Definitions

2 "x x x

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

13 "Because of their non-profit nature, cooperative character
14 and the heavy financial burdens that they must sustain to become
15 effectively established and operationally viable, electric
16 cooperatives, particularly, shall be given every tenable support
17 and assistance by the National Government, its instrumentalities
18 and agencies to the fullest extent of which they are capable; and,
19 being by their nature substantially self-regulating and Congress,
20 having, by the enactment of this Decree, substantially covered all
21 phases of their organization and operation requiring or justifying
22 regulation, and in order to further encourage and promote their
23 development, they should be subject to minimal regulation by
24 other administrative agencies.

25 "Area coverage electrification cannot be achieved unless
26 service to the more thinly settled areas and therefore more costly
27 to electrify is combined with service to the most densely settled
28 areas and therefore less costly to electrify. Every public service

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

14 “(A) PROMOTE THE SUSTAINABLE DEVELOPMENT IN
15 THE RURAL AREAS THROUGH RURAL ELECTRIFICATION;

16 “(B) EMPOWER AND STRENGTHEN THE NATIONAL
17 ELECTRIFICATION ADMINISTRATION (NEA) TO PURSUE THE
18 RURAL ELECTRIFICATION PROGRAM THROUGH THE ELECTRIC
19 COOPERATIVES AS ITS IMPLEMENTING ARM; AND

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

1 SEC. 3. A new section is hereby inserted, to be designated as Section
2 2-A, to read as follows:

3 “SECTION 2-A. *SCOPE.* – THIS ACT SHALL ESTABLISH
4 A FRAMEWORK FOR STRUCTURAL REFORMS IN THE NEA AND
5 THE ELECTRIC COOPERATIVES.”

6 SEC. 4. Five (5) new paragraphs, to be designated as paragraphs (s),
7 (t), (u), (v) and (w), are hereby inserted under Section 3 of Presidential Decree
8 No. 269, as amended, to read as follows:

9 “Section 3. *Definitions.* – As used in this Decree, the
10 following words or terms shall have the following meanings,
11 unless a different meaning clearly appears from the context:

12 “x x x

13 “(S) ‘CDA’ SHALL REFER TO THE COOPERATIVE
14 DEVELOPMENT AUTHORITY CREATED UNDER REPUBLIC ACT
15 NO. 6939.

16 “(T) ‘DOE’ SHALL REFER TO THE DEPARTMENT OF
17 ENERGY CREATED UNDER REPUBLIC ACT NO. 7638, AS
18 AMENDED.

19 “(U) ‘ELECTRIC COOPERATIVE’ SHALL REFER TO AN
20 ELECTRIC DISTRIBUTION UTILITY ORGANIZED AND
21 REGISTERED PURSUANT TO PRESIDENTIAL DECREE NO. 269,
22 AS AMENDED, REPUBLIC ACT NO. 9520, AND OTHER RELATED
23 LAWS.

24 “(V) ‘EPIRA’ SHALL REFER TO REPUBLIC ACT NO.
25 9136 OR THE ‘ELECTRIC POWER INDUSTRY REFORM ACT OF
26 2001’.

1 “(W) ‘ERC’ SHALL REFER TO THE ENERGY
2 REGULATORY COMMISSION CREATED UNDER REPUBLIC ACT
3 NO. 9136.”

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

6 “CHAPTER II. - The National Electrification Administration

7 “[Section 4. *NEA Authorities, Powers and Directives.*

8 – The NEA is hereby authorized, empowered and directed to
9 promote, encourage and assist public service entities, particularly
10 cooperatives, to the end of achieving the objective of making
11 service available throughout the nation on an area coverage basis
12 as rapidly as possible; and for such purpose it is hereby, without
13 limiting the generality of the foregoing and in addition to other
14 authorizations, powers and directives established by this Decree,
15 specifically authorized, empowered and directed:

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

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

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

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

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

27 “(f) To make loans to public service entities, with
28 preference to cooperatives, for the construction or acquisition,

1 operation and maintenance of generation, transmission and
2 distribution facilities and all related properties, equipment,
3 machinery, fixtures, and materials for the purpose of supplying
4 area coverage service, and thereafter to make loans for the
5 restoration, improvement or enlargement of such facilities;
6 *Provided*, That the public service entity supplying for a loan, if
7 neither a cooperative nor a local government, must be in
8 operation at the time of application;

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

19 “(h) To approve or disapprove any loan from other
20 lenders to public service entities which at the time are borrowers
21 from NEA under sub-paragraphs (f) or (i) of this section, and
22 thereafter, pursuant to Section 10 (b) to disapprove advances of
23 loans from other lenders;

24 “(i) To make loans for the purpose of financing the
25 wiring of premises of persons served or to be served as a result
26 of loans made under sub-paragraph (f) of this Section, and for
27 the acquisition and installation by such persons of electrically-
28 powered appliances, equipment, fixtures and machinery of all

1 kinds for residential, recreational, commercial, agricultural and
2 industrial uses, such loans to be made directly (1) to public
3 service entities which have received loans under sub-paragraph
4 (f) of this section, which entities shall in turn relend such funds
5 to persons served or to be served by them, or (2) to any persons
6 served or to be served by public service entities which have
7 received loans under sub-paragraph (f) of this section: *Provided,*
8 That at no time shall the total loans made under this
9 sub-paragraph (i) to a public service entity and/or to persons
10 served or to be served by such entity exceed twenty-five (25%)
11 per centum of the outstanding loans to such entity made under
12 sub-paragraph (f) of this section;

13 “(j) To so cooperate, coordinate and exchange such
14 information, studies and reports with, and to seek such
15 cooperation and coordination from, other departments, agencies
16 and instrumentalities of the National Government, including the
17 NPC, as will most effectively conduce to the achievement of the
18 purposes of this Decree;

19 “(k) To borrow funds from any source, private or
20 government, foreign or domestic, and, not inconsistently with
21 section 8, to issue bonds or other evidences of indebtedness
22 therefor and to secure the lenders thereof by pledging, sharing or
23 subordinating one or more of the NEA’s own loan securities;

24 “(l) To receive from Cooperatives all articles of
25 incorporation, amendments, consolidation, merger, conversion
26 and dissolution, and all certificates of changes in the location of
27 principal offices and of elections to dissolve, and, upon
28 determining that such are in conformity with this Decree, to

1 certify the same, to file them in the records of the NEA, and to
2 maintain a registry of such filings the provisions of Act No.
3 1459, as amended, to the contrary notwithstanding;

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

1 hold, transfer, sell, lease, rent, mortgage, encumber and
2 otherwise dispose of property incident to, or necessary,
3 convenient or proper to carry out, the purposes for which NEA
4 was created;

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

22 “(o) To exercise such powers and do such things as may
23 be necessary to carry out the business and purposes for which the
24 NEA was established, or which from time to time may be
25 declared by the Board of Administrators to be necessary, useful,
26 incidental or auxiliary to accomplish such purposes; and
27 generally, to exercise all the powers of a corporation under the

1 Corporation Law insofar as they are not inconsistent with the
2 provisions of this Decree;

3 “(l) To require the submission of Articles of
4 Incorporation, by-laws, and documents relating to consolidation
5 merger, conversion, dissolution, change in the location of
6 principal offices, and election to dissolve, from all recipients of
7 loans and/or equity investments and upon determination that
8 such are in conformity with this Decree, to certify the same, to
9 file them in the records of the NEA and to maintain a registry of
10 such filings the provisions of Act No. 1458, as amended, to be
11 *contrary notwithstanding.*

12 “(p) To invest and/or grant loans for the development
13 of power generation industries or companies, including
14 dendro-thermal and mini-hydro-power plants and associated
15 facilities such as alcogas and tree plantations, water impounding
16 reservoirs and feeder roads: *Provided,* That such investments
17 and loans shall be limited to a specific percentage of total
18 requirements as may be determined by the NEA Board of
19 Administrators.

20 “(q) To organize wholly or partly owned companies and
21 subsidiaries for the purpose of operating power generating and
22 distribution systems and other related activities; and

23 “(r) To organize wholly or partly owned subsidiaries for
24 the purpose of manufacturing materials and equipment for power
25 generating systems.]

26 “SECTION 4. *POWERS, FUNCTIONS AND PRIVILEGES OF*
27 *THE NATIONAL ELECTRIFICATION ADMINISTRATION. -- TO*
28 *STRENGTHEN THE ELECTRIC COOPERATIVES, HELP THEM*

1 BECOME ECONOMICALLY AND FINANCIALLY VIABLE AND
2 PREPARE THEM FOR THE IMPLEMENTATION OF OPEN ACCESS
3 AND RETAIL COMPETITION PURSUANT TO SECTION 31 OF
4 REPUBLIC ACT NO. 9136, THE NEA SHALL:

5 “(A) SUPERVISE THE MANAGEMENT AND OPERATIONS
6 OF ALL ELECTRIC COOPERATIVES;

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

8 “(C) PROVIDE INSTITUTIONAL, FINANCIAL AND
9 TECHNICAL ASSISTANCE TO ELECTRIC COOPERATIVES;

10 “(D) PURSUE THE TOTAL ELECTRIFICATION OF THE
11 COUNTRY THROUGH THE ELECTRIC COOPERATIVES, IN
12 COORDINATION WITH THE NATIONAL POWER CORPORATION –
13 SMALL POWER UTILITIES GROUP (NPC-SPUG) INSOFAR
14 AS THE TOTAL ELECTRIFICATION OF SPUG-AREAS IS
15 CONCERNED;

16 “(E) DEVOTE ALL RETURNS FROM ITS CAPITAL
17 INVESTMENT TO ATTAIN THE OBJECTIVES OF THIS ACT;

18 “(F) ENSURE THE ECONOMIC AND FINANCIAL
19 VIABILITY AND OPERATION OF ALL THE ELECTRIC
20 COOPERATIVES;

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

1 “(H) FORMULATE AND IMPOSE ADMINISTRATIVE
2 SANCTIONS AND PENALTIES AND WHEN WARRANTED, FILE
3 CRIMINAL CASES AGAINST THOSE WHO ARE FOUND IN
4 VIOLATION OF ANY OF THE PROVISIONS OF THIS ACT AND ITS
5 IMPLEMENTING RULES AND REGULATIONS;

6 “(I) SERVE AS GUARANTOR TO ALL ELECTRIC
7 COOPERATIVES IN THEIR TRANSACTIONS SUCH AS, BUT NOT
8 LIMITED TO, CO-SIGNING IN POWER SUPPLY CONTRACTS;

9 “(J) GRANT LOANS TO ELECTRIC COOPERATIVES FOR
10 THE CONSTRUCTION OR ACQUISITION, OPERATION AND
11 MAINTENANCE OF GENERATION, SUB-TRANSMISSION AND
12 DISTRIBUTION FACILITIES AND ALL RELATED PROPERTIES,
13 EQUIPMENT, MACHINERY, FIXTURES AND MATERIALS FOR THE
14 PURPOSE OF SUPPLYING ELECTRICITY ON AN AREA COVERAGE
15 BASIS, AND THEREAFTER FOR THE RESTORATION,
16 IMPROVEMENT OR EXPANSION OF SUCH FACILITIES AND FOR
17 SUCH OTHER PURPOSES AS MAY BE DEEMED NECESSARY;

18 “(K) DETERMINE THE AUTHORIZED SIGNATORIES OF
19 THE ELECTRIC COOPERATIVES IN BANK TRANSACTIONS AND
20 OTHER LEGAL INSTRUMENTS IN CASES OF DISPUTES AND
21 CONFLICTS;

22 “(L) SUBJECT TO THE PRIOR APPROVAL OF THE
23 MONETARY BOARD, BORROW FUNDS FROM ANY SOURCE,
24 PRIVATE OR GOVERNMENT, FOREIGN OR DOMESTIC, AND
25 SECURE THE LENDERS THEREOF BY PLEDGING, SHARING OR
26 SUBORDINATING ONE (1) OR MORE OF ITS OWN LOAN
27 SECURITIES;

28 “(M) EXERCISE PRIMARY AND EXCLUSIVE
29 JURISDICTION IN THE ADJUDICATION OF COMPLAINTS ON

1 ELECTRIC COOPERATIVE OFFICERS, ELECTION DISPUTES
2 AND ALL MATTERS RELATING TO THE EFFECTIVE
3 IMPLEMENTATION OF THE PROVISIONS OF THIS ACT;

4 "(N) ENLIST THE ASSISTANCE OF LAW ENFORCEMENT
5 AGENCIES IN THE IMPLEMENTATION OF ORDERS AND
6 REGULATIONS ISSUED BY IT;

7 "(O) EXERCISE SUCH OTHER POWERS AND FUNCTIONS
8 AS MAY BE NECESSARY TO CARRY OUT THE BUSINESS AS MAY
9 BE DETERMINED BY THE BOARD OF ADMINISTRATORS AS
10 VITAL, USEFUL, INCIDENTAL OR AUXILIARY TO ACCOMPLISH
11 SUCH PURPOSES; AND

12 "(P) GENERALLY, TO EXERCISE ALL THE POWERS OF
13 A CORPORATION UNDER BATAS PAMBANSA BILANG 68,
14 OTHERWISE KNOWN AS THE 'CORPORATION CODE OF THE
15 PHILIPPINES' INSOFAR AS THEY ARE NOT INCONSISTENT WITH
16 THE PROVISIONS OF THIS ACT.

17 "FOR THIS PURPOSE, THE AUTHORIZED CAPITAL STOCK
18 OF THE NEA IS HEREBY INCREASED TO TWENTY-FIVE BILLION
19 PESOS (P25,000,000,000.00) DIVIDED INTO TWO HUNDRED
20 FIFTY MILLION (250,000,000) SHARES WITH A PAR VALUE OF
21 ONE HUNDRED PESOS (P100.00)."

22 SEC. 6. A new section, to be designated as Section 4-A, is hereby
23 inserted to read as follows:

24 "SECTION 4-A. *SUPERVISORY POWERS OF THE*
25 *NATIONAL ELECTRIFICATION ADMINISTRATION OVER ELECTRIC*
26 *COOPERATIVES. - IN THE EXERCISE OF ITS SUPERVISION*
27 *OVER ELECTRIC COOPERATIVES, THE NEA SHALL HAVE THE*
28 *FOLLOWING POWERS:*

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

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

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

18 SEC. 7. A new section, to be designated as Section 4-B, is hereby
19 inserted to read as follows:

20 “SECTION 4-B. *NEA STEP-IN RIGHTS.* – TO PROTECT
21 THE INTEREST OF THE MEMBER-CONSUMERS AND THE PUBLIC
22 IN GENERAL, THE NEA SHALL HAVE THE RIGHT TO
23 INTERVENE AND TAKE PREVENTIVE MEASURES IN CASE AN
24 ELECTRIC COOPERATIVE FALLS UNDER ANY OF THE
25 FOLLOWING CIRCUMSTANCES:

26 “(A) UNABLE TO PAY ITS LIABILITIES AS THEY
27 BECOME DUE IN THE ORDINARY COURSE OF BUSINESS;

1 “(B) HAVE INSUFFICIENT REALIZABLE ASSETS, AS MAY
2 BE DETERMINED BY THE NEA, TO MEET ITS CURRENT
3 LIABILITIES;

4 “(C) UNABLE TO PROVIDE ELECTRIC SERVICE DUE TO
5 TECHNICAL AND/OR FINANCIAL INSUFFICIENCIES INCLUDING,
6 BUT NOT LIMITED TO, HIGH SYSTEMS LOSS, LOW COLLECTION
7 EFFICIENCY, BELOW STANDARD CURRENT RATIO, OPERATING
8 LOSS, HUGE LIABILITIES, NEGATIVE NET WORTH AND
9 INSTITUTIONAL PROBLEMS SUCH AS GOVERNANCE, CONSUMER
10 PER EMPLOYEE RATIO AND ADHERENCE TO POLICIES; AND

11 “(D) UNABLE TO PERFORM ITS ELECTRIC
12 DISTRIBUTION UTILITY OBLIGATIONS OR CONTINUE IN
13 BUSINESS DUE TO ORGANIZATIONAL AND/OR INTERNAL
14 CONFLICTS.

15 “FOR THIS PURPOSE, THE NEA MAY TAKE OVER THE
16 MANAGEMENT AND OPERATION OF THE ELECTRIC
17 COOPERATIVE, APPOINT OR ASSIGN THIRD PERSONS TO THE
18 BOARD, OR CREATE A MANAGEMENT TEAM WHOSE MEMBERS
19 POSSESS THE QUALIFICATIONS AND EXPERIENCE SUITED FOR
20 THE TASK.

21 “IF WITHIN A REASONABLE PERIOD, NOT EXCEEDING
22 ONE (1) YEAR FROM ITS TAKEOVER, THE NEA DETERMINES
23 THAT SUCH ELECTRIC COOPERATIVE IS UNABLE TO CONTINUE
24 ITS OPERATION IN THE ORDINARY COURSE OF BUSINESS, IT
25 MAY INITIATE STRUCTURAL REFORMS TO ENSURE ITS
26 CONTINUED OPERATION AND EFFICIENT DELIVERY OF
27 ELECTRIC SERVICE WITHIN ITS FRANCHISE AREA.

28 “IN THE CASE OF ORGANIZATIONAL AND/OR INTERNAL
29 CONFLICTS AS PROVIDED UNDER PARAGRAPH (D) OF THIS

1 SECTION, THE NEA SHALL GIVE THE AGENCY WHERE THE
 2 ELECTRIC COOPERATIVE IS REGISTERED, THE OPPORTUNITY
 3 TO RESOLVE OR TAKE REMEDIAL MEASURES WITHOUT
 4 PREJUDICE TO THE EXERCISE OF ITS STEP-IN RIGHTS.”

5 SEC. 8. A new section, to be designated as Section 4-C, is hereby
 6 inserted to read as follows:

7 “SECTION 4-C. *INJUNCTION OR TEMPORARY*
 8 *RESTRAINING ORDER.* – NO INJUNCTION OR TEMPORARY
 9 RESTRAINING ORDER SHALL BE ISSUED AGAINST THE
 10 IMPLEMENTATION OF ANY ORDER, RULING OR DECISION OF
 11 THE NEA, EXCEPT BY THE COURT OF APPEALS, AND ONLY
 12 UPON THE POSTING OF A BOND SUFFICIENT TO COVER THE
 13 LIABILITIES AND EXPENDITURES ARISING DURING THE
 14 PENDENCY OF THE WRIT OR INJUNCTION OR TEMPORARY
 15 RESTRAINING ORDER: *PROVIDED*, THAT THE INJUNCTION
 16 SHALL ONLY BE EFFECTIVE FOR A PERIOD NOT EXCEEDING
 17 SIXTY (60) DAYS.”

18 SEC. 9. Section 16, paragraph (j) of Presidential Decree No 269, as
 19 amended, is hereby further amended to read as follows:

20 “CHAPTER III - Electric Cooperatives

21 “x x x

22 “Section 16. *Powers.* – A cooperative is hereby vested
 23 with all powers necessary or convenient for the accomplishment
 24 of its corporate purpose and capable of being delegated by the
 25 President or the National Assembly when it comes into
 26 existence; and no enumeration of particular powers hereby
 27 granted shall be construed to impair any general grant of power
 28 herein contained, nor to limit any such grant to a power or

1 powers of the same class as those so enumerated. Such powers
2 shall include but not be limited to, the power:

3 "x x x

4 "{(j) To construct, maintain and operate electric
5 transmission and distribution lines along, upon, under and across
6 publicly owned lands and public thoroughfares, including,
7 without limitation, all roads, highways, streets, alleys, bridges
8 and causeways; *Provided*, That such shall not prevent or unduly
9 impair the primary public uses to which such lands and
10 thoroughfares are otherwise devoted;]

11 "(J) TO CONSTRUCT, ACQUIRE, OWN, OPERATE AND
12 MAINTAIN ELECTRIC SUB-TRANSMISSION AND DISTRIBUTION
13 LINES ALONG, UPON, UNDER AND ACROSS PUBLICLY OWNED
14 LANDS AND PUBLIC THOROUGHFARES INCLUDING, WITHOUT
15 LIMITATION, ALL ROADS, HIGHWAYS, STREETS, ALLEYS,
16 BRIDGES AND CAUSEWAYS. IN THE EVENT OF THE NEED OF
17 SUCH LANDS AND THOROUGHFARES FOR THE PRIMARY
18 PURPOSE OF THE GOVERNMENT, THE ELECTRIC COOPERATIVE
19 SHALL BE PROPERLY COMPENSATED.

20 "(J-1) TO CONSTRUCT, ACQUIRE, OWN, OPERATE AND
21 MAINTAIN GENERATING FACILITIES WITHIN ITS FRANCHISE
22 AREA. IN PURSUANCE THEREOF, WHERE AN ELECTRIC
23 COOPERATIVE PARTICIPATES IN A BID ON AN EXISTING
24 GENERATING FACILITY, ITS QUALIFIED BID SHALL BE GIVEN
25 PREFERENCE IN CASE OF A TIE: *PROVIDED, HOWEVER, THAT*
26 *IN CASES WHERE THERE IS NO OTHER QUALIFIED BIDDER, THE*
27 *BIDDING SHALL REMAIN VALID AS BASIS FOR THE*
28 *DETERMINATION OF THE FINAL AWARD."*

1 "x x x."

2 SEC. 10. A new section, to be designated as Section 26-A, is hereby
3 inserted to read as follows:

4 "SECTION 26-A. *INDEPENDENCE OF THE BOARD OF*
5 *DIRECTORS AND OFFICERS OF ELECTRIC COOPERATIVES. — TO*
6 *ENSURE THE LONG-TERM BUSINESS AND ECONOMIC VIABILITY*
7 *OF ELECTRIC COOPERATIVES, THE MANAGEMENT,*
8 *OPERATIONS AND STRATEGIC PLANNING OF ELECTRIC*
9 *COOPERATIVES SHALL, AS MUCH AS PRACTICABLE, BE*
10 *INSULATED FROM POLITICS.*

11 "TOWARDS THIS END, NO PERSON SHALL BE ELECTED
12 OR APPOINTED AS AN OFFICER OR BE ELIGIBLE TO RUN AS A
13 BOARD MEMBER OF AN ELECTRIC COOPERATIVE IF:

14 "(A) THE PERSON OR THE SPOUSE HOLDS ANY PUBLIC
15 OFFICE;

16 "(B) THE PERSON OR THE SPOUSE HAS BEEN A
17 CANDIDATE IN THE LAST PRECEDING LOCAL OR NATIONAL
18 ELECTION;

19 "(C) THE PERSON HAS BEEN CONVICTED BY FINAL
20 JUDGMENT OF A CRIME INVOLVING MORAL TURPITUDE;

21 "(D) THE PERSON HAS BEEN TERMINATED FOR CAUSE
22 FROM PUBLIC OFFICE OR PRIVATE EMPLOYMENT;

23 "(E) THE PERSON IS RELATED TO ANY MEMBER OF THE
24 ELECTRIC COOPERATIVE BOARD OF DIRECTORS, GENERAL
25 MANAGER AND DEPARTMENT MANAGERS WITHIN THE
26 FOURTH (4TH) CIVIL DEGREE OF CONSANGUINITY OR AFFINITY;

27 "(F) THE PERSON IS A REPRESENTATIVE OF A
28 JURIDICAL PERSON; AND

1 “(G) THE PERSON IS EMPLOYED BY OR HAS FINANCIAL
2 INTEREST IN A COMPETING ENTERPRISE OR A BUSINESS
3 SELLING ELECTRIC ENERGY OR ELECTRICAL HARDWARE TO
4 THE COOPERATIVE OR DOING BUSINESS WITH THE
5 COOPERATIVE INCLUDING THE USE OR RENTAL OF POLES.”

6 SEC. 11. A new section, to be designated as Section 26-B, is hereby
7 inserted to read as follows:

8 “SECTION 26-B. *FIT AND PROPER RULE.* – TO ENSURE
9 THAT THE MANAGEMENT AND OPERATIONS OF AN ELECTRIC
10 COOPERATIVE ARE CARRIED OUT WITH DUE REGARD TO ITS
11 ECONOMIC VIABILITY, THE NEA SHALL PRESCRIBE, PASS
12 UPON AND REVIEW THE QUALIFICATIONS AND
13 DISQUALIFICATIONS OF INDIVIDUALS APPOINTED OR ELECTED
14 TO AN ELECTRIC COOPERATIVE AND DISQUALIFY THOSE
15 FOUND UNFIT.

16 “THE INTEGRITY, EXPERIENCE, EDUCATION,
17 COMPETENCE AND PROBITY OF A CANDIDATE SHALL BE
18 CONSIDERED IN DETERMINING WHETHER THE PERSON IS FIT
19 AND PROPER TO BECOME A DIRECTOR OR OFFICER OF THE
20 ELECTRIC COOPERATIVE.

21 “FOR THIS PURPOSE, THE FOLLOWING SHALL BE THE
22 MINIMUM QUALIFICATIONS OF A DIRECTOR OR OFFICER OF
23 THE ELECTRIC COOPERATIVE:

24 “(A) MUST BE A FILIPINO CITIZEN;

25 “(B) MUST BE A GRADUATE OF A FOUR (4)-YEAR
26 COLLEGE DEGREE;

27 “(C) MUST BE BETWEEN TWENTY-FIVE (25) AND
28 SEVENTY (70) YEARS OLD ON THE DATE OF THE ELECTION;

29 “(D) MUST BE OF GOOD MORAL CHARACTER;

1 “(E) MUST BE A MEMBER OF THE ELECTRIC
2 COOPERATIVE IN GOOD STANDING FOR THE LAST FIVE (5)
3 YEARS;

4 “(F) MUST BE AN ACTUAL RESIDENT AND CONSUMER IN
5 THE DISTRICT THE PERSON SEEKS TO REPRESENT FOR AT
6 LEAST TWO (2) YEARS IMMEDIATELY PRECEDING THE
7 ELECTION; AND

8 “(G) MUST HAVE ATTENDED AT LEAST TWO (2)
9 ANNUAL GENERAL MEMBERSHIP ASSEMBLIES (AGMA) FOR
10 THE LAST FIVE (5) YEARS.

11 “THE NEA MAY, AFTER DUE NOTICE TO THE BOARD OF
12 DIRECTORS AND OFFICERS OF THE ELECTRIC COOPERATIVE,
13 DISQUALIFY, SUSPEND OR REMOVE ANY DIRECTOR OR OFFICER
14 WHO COMMITS ANY PROHIBITED ACT OR FAILS TO COMPLY
15 WITH THE PROVISIONS OF THIS ACT.”

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

18 “[Section 32. *Conversion of Existing Corporation.*

19 – Any corporation heretofore organized or registered under the
20 Philippine Non-Agricultural Cooperative Act and supplying or
21 having the corporate power to supply electric energy may
22 convert itself into a cooperative under this Decree by complying
23 with the following requirements, and shall thereupon become the
24 subject to this Decree with the same effect as if originally
25 organized hereunder:

26 “(a) The proposition for the conversion of such
27 corporation and proposed articles of conversion to give effect
28 thereto shall be submitted to a meeting of the members or

1 stockholders of such corporation, the notice of which shall have
2 attached thereto a copy of the proposed articles of conversion or
3 an accurate summary thereof.

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

1 shall make and annex thereto an affidavit stating that the
2 provisions of this section were duly complied with in respect to
3 such articles. The articles of conversion shall be deemed to be
4 the articles of incorporation of the cooperative.]

5 "SECTION 32. *REGISTRATION OF ALL ELECTRIC*
6 *COOPERATIVES.* - ALL ELECTRIC COOPERATIVES MAY
7 REMAIN OR CONVERT AND REGISTER AS: (A) A NONSTOCK,
8 NON-PROFIT COOPERATIVE; (B) A STOCK COOPERATIVE; OR
9 (C) A STOCK CORPORATION IN ACCORDANCE WITH THE
10 GUIDELINES TO BE INCLUDED IN THE IMPLEMENTING RULES
11 AND REGULATIONS (IRR) OF THIS ACT.

12 "SUCH CHOICE SHALL CARRY THE ATTENDANT
13 REQUIREMENTS OF COMPLIANCE WITH THE LAWS AND
14 REGULATORY GUIDELINES GOVERNING THE RESPECTIVE
15 GOVERNMENT AGENCIES HAVING JURISDICTION OVER THEIR
16 REGISTRATION.

17 "THE NEA SHALL HAVE THE AUTHORITY OVER
18 ELECTRIC COOPERATIVES, WHETHER STOCK OR NONSTOCK,
19 WITH RESPECT TO THEIR OPERATIONS AS ELECTRIC
20 DISTRIBUTION UTILITIES. AS SUCH, THE ELECTRIC
21 COOPERATIVES SHALL SUBMIT REPORTORIAL REQUIREMENTS
22 AS MAY BE NECESSARY INCLUDING, BUT NOT LIMITED TO:

23 "(A) MONTHLY FINANCIAL AND STATISTICAL REPORT
24 (MFSR);

25 "(B) MONTHLY STATUS OF BARANGAY AND SITIO
26 ENERGIZATION AND HOUSE CONNECTIONS;

27 "(C) MONTHLY INSTITUTIONAL SERVICES
28 DEPARTMENT (ISD) REPORT;

1 “(D) MONTHLY PERFORMANCE STANDARD
2 MONITORING REPORT (PSMR);

3 “(E) MONTHLY SUMMARY OF COMPLAINTS RECEIVED
4 AND ACTED UPON;

5 “(F) MONTHLY REPORT ON COMPLIANCE WITH THE
6 GRID CODE AND DISTRIBUTION CODE;

7 “(G) MONTHLY ENGINEERING REPORT (MER);

8 “(H) QUARTERLY REPORT ON POWER SUPPLY
9 CONTRACTS;

10 “(I) ANNUAL WORKPLAN;

11 “(J) ANNUAL DISTRIBUTION DEVELOPMENT PLAN
12 (DDP);

13 “(K) FIVE (5)-YEAR INVESTMENT PLAN SUBMITTED
14 ANNUALLY;

15 “(L) ANNUAL CASH OPERATING BUDGET (COB);

16 “(M) AUDITED FINANCIAL STATEMENTS;

17 “(N) ANNUAL COLLECTIVE BARGAINING AGREEMENT
18 (CBA) OR COLLECTIVE NEGOTIATION AGREEMENT (CNA);
19 AND

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

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

26 “ELECTRIC COOPERATIVES WHICH REGISTER WITH THE
27 CDA SHALL CONTINUE TO ENJOY THE BENEFITS AND
28 INCENTIVES UNDER THIS ACT.

1 “EXISTING ELECTRIC COOPERATIVES MAY LIKEWISE
2 OPT TO REGISTER AS STOCK CORPORATIONS WITH THE
3 SECURITIES AND EXCHANGE COMMISSION (SEC): *PROVIDED,*
4 *HOWEVER,* THAT SUCH STOCK CORPORATIONS SHALL NO
5 LONGER ENJOY THE BENEFITS AND INCENTIVES CONTAINED
6 UNDER THIS ACT.

7 “DESPITE THE CONVERSION AND REGISTRATION OF AN
8 ELECTRIC COOPERATIVE UNDER THE CDA, THE NEA SHALL
9 RETAIN ITS SUPERVISORY AND DISCIPLINARY POWERS OVER
10 SUCH ELECTRIC COOPERATIVE IN THE CONDUCT OF ITS
11 OPERATION AS AN ELECTRIC DISTRIBUTION UTILITY.

12 “TO ENABLE THE NEA TO EFFECTIVELY MONITOR
13 THE STATUS OF IMPLEMENTATION OF THE RURAL
14 ELECTRIFICATION PROGRAM, DISTRIBUTION UTILITIES ARE
15 HEREBY REQUIRED TO FURNISH THE NEA COPIES OF REPORTS
16 WITH RESPECT TO THEIR OPERATIONS INsofar AS RURAL
17 ELECTRIFICATION IS CONCERNED.”

18 SEC. 13. A new section, to be designated as Section 32-A, is hereby
19 inserted to read as follows:

20 “SECTION 32-A. *INCENTIVES OF ELECTRIC*
21 *COOPERATIVES.* – CONSISTENT WITH THE DECLARED POLICY
22 OF THIS ACT, ELECTRIC COOPERATIVES WHICH COMPLY WITH
23 THE FINANCIAL AND OPERATIONAL STANDARDS SET BY THE
24 NEA SHALL ENJOY THE FOLLOWING INCENTIVES:

25 “(A) TO BE ENTITLED TO CONGRESSIONAL
26 ALLOCATIONS, GRANTS, SUBSIDIES AND OTHER FINANCIAL
27 ASSISTANCE FOR RURAL ELECTRIFICATION; AND

28 “(B) TO RECEIVE ALL SUBSIDIES, GRANTS AND OTHER
29 ASSISTANCE WHICH SHALL FORM PART OF THE DONATED

1 CAPITAL AND FUNDS OF THE ELECTRIC COOPERATIVES:
2 *PROVIDED, HOWEVER, THAT THESE SHALL NOT BE SOLD,*
3 *TRADED NOR DIVIDED INTO SHARE HOLDINGS AT ANY TIME.*
4 *SUCH DONATED CAPITAL AND FUNDS SHALL BE APPRAISED AND*
5 *VALUED FOR THE SOLE PURPOSE OF DETERMINING THE*
6 *EQUITY PARTICIPATION OF THE MEMBERS: PROVIDED, THAT*
7 *IN CASE OF DISSOLUTION OR CONVERSION OF THE ELECTRIC*
8 *COOPERATIVE, SAID DONATED CAPITAL AND FUNDS SHALL BE*
9 *SUBJECT TO ESCHEAT.*

10 "AS A FURTHER INCENTIVE, THE NEA MAY PRIORITIZE
11 THE GRANT OF INCENTIVES IN FAVOR OF ELECTRIC
12 COOPERATIVES THAT ARE MANAGED EFFECTIVELY AND
13 EFFICIENTLY AND CONSISTENTLY COMPLY WITH THEIR
14 MANDATES AND DIRECTIVES."

15 SEC. 14. A new section, to be designated as Section 64-A, is hereby
16 inserted to read as follows:

17 "CHAPTER V - Transitory Provisions

18 "SECTION 64-A. *PENALTIES.* - ANY PERSON WHO
19 WILLFULLY VIOLATES ANY RULE OR REGULATION
20 PROMULGATED PURSUANT TO THE AUTHORITY GRANTED IN
21 THIS ACT SHALL, UPON CONVICTION, BE PUNISHED BY A FINE
22 OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT
23 NOT MORE THAN FIVE HUNDRED THOUSAND PESOS
24 (P500,000.00) OR BY IMPRISONMENT OF NOT LESS THAN SIX
25 (6) MONTHS BUT NOT MORE THAN ONE (1) YEAR, OR BOTH, AT
26 THE DISCRETION OF THE COURT: *PROVIDED, THAT IF THE*
27 *VIOLATION IS COMMITTED BY A JURIDICAL PERSON, THE*
28 *PENALTY HEREIN SHALL BE IMPOSED UPON THE OFFICIAL*
29 *AND/OR EMPLOYEE THEREOF RESPONSIBLE FOR THE*

1 **VIOLATION: PROVIDED, FURTHER, THAT IF THE VIOLATION IS**
2 **COMMITTED BY A GOVERNMENT OFFICIAL OR EMPLOYEE,**
3 **INCLUDING THOSE IN GOVERNMENT-OWNED OR -CONTROLLED**
4 **CORPORATIONS, HE/SHE SHALL, IN ADDITION TO THE PENALTY**
5 **AS PROVIDED HEREIN, BE SUBJECTED TO ADMINISTRATIVE**
6 **DISCIPLINARY ACTION.”**

7 SEC. 15. A new section, to be designated as Section 64-B, is hereby
8 inserted to read as follows:

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

14 SEC. 16. *Implementing Rules and Regulations.* – Within six (6)
15 months from the effectivity of this Act, the DOE shall, in consultation with the
16 Senate and House of Representatives Committees on Energy, the NEA, the
17 CDA, the Securities and Exchange Commission (SEC), the Bangko Sentral ng
18 Pilipinas (BSP) and the electric cooperatives, promulgate the implementing
19 rules and regulations of this Act.

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

23 SEC. 18. *Repealing Clause.* – Any provision of laws, presidential
24 decrees, executive orders or rules and regulations inconsistent with the
25 provisions of this Act or with the rules and regulations issued pursuant thereto
26 is hereby repealed or modified accordingly.

1 SEC. 19. *Effectivity.* -- This Act shall take effect immediately upon its
2 publication in at least two (2) newspapers of general circulation.

Approved,

O