

[PRESIDENTIAL DECREE NO. 269, August 06, 1973]

CREATING THE "NATIONAL ELECTRIFICATION ADMINISTRATION" AS A CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE SAID OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATIONS, THE REPEAL OF REPUBLIC ACT NO. 6038, AND FOR OTHER PURPOSES.

WHEREAS, it is the desire of the Government to effect changes and reforms in the social, economic, and political structure of our society;

WHEREAS, detailed studies have clearly emphasized the very close correlation between consumption of energy and gross national product. Electric power, wherever, introduced, stimulates the growth of industry and the economy in general;

WHEREAS, electrification of the entire country, one of the primary concerns of the Government in order to bring about the desired changes and reforms, can be hastened by rationalizing the distribution of electricity;

WHEREAS, rationalization, which implies the adoption of all measures necessary to obtain the maximum benefit at the minimum expense, can be achieved by:

1. Establishing island grids and integrating power generating systems.
2. Consolidating electric distribution franchise systems. The existence of small franchise systems impede the progress of total electrification, as such small and isolated systems are antithetical to the economies of scale.
3. Implementing the area coverage concept, which will allow the construction of lines to thinly settled areas which are most costly to electrify, *provided* that the losses from these lines can be reasonably absorbed by the more profitable lines;

WHEREAS, under Republic Act No. 6038, dated August 4, 1969, Presidential Decree No. 40 and Letter of Instruction No. 38, both dated November 7, 1972, the National Electrification on an area coverage basis; to set up cooperatives for the distribution of power; and to determine privately-owned public utilities which should be permitted to remain in operation; and

WHEREAS, to attain total electrification in the most effective and efficient manner, there is a need to further strengthen and make more flexible the organizational structure of the National Electrification Administration by converting it into a corporation, wholly-owned and controlled by the Government possessed with borrowing authority and corporate powers;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to

Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby repeal Republic Act No. 6038 and do hereby decree, order and make as part of the law of the land the Charter of the National Electrification Administration, which reads as follows:

Chapter I - POLICY AND DEFINITIONS

SECTION 1. Title. — This Decree shall be referred to as the "National Electrification Administration Decree."

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

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

Area coverage electrification cannot be achieved unless service to the more thinly settled areas and therefore more costly to electrify is combined with service to the most densely settled areas and therefore less costly to electrify. Every public service entity should hereafter cooperate in a national program of electrification on an area coverage basis, or else surrender its franchise in favor of those public service entities which will. It is hereby found that the total electrification of the Nation requires that the laws and administrative practices relating to franchised electric service areas be revised and made more effective, as herein *provided*. It is therefore hereby declared to be the policy of the State that franchises for electric service areas shall hereafter be so issued, conditioned, altered or repealed, and shall be subject to such continuing regulatory surveillance, that the same shall conduce to the most expeditious electrification of the entire Nation on an area coverage basis.

SEC. 3. Definitions. — As used in this Decree, the following words or terms shall have the following meanings, unless a different meaning clearly appears from the context;

(a) "NEA" shall mean the National Electrification Administration, "Board of Administrators" shall mean the Board of Administrators, and "Administrator" shall mean the Administrator, all as *provided* for in this Decree.

(b) "Cooperative" shall mean a corporation organized under Republic Act No. 6038 or this Decree or a cooperative supplying or empowered to supply service which has heretofore been organized under the Philippine

Non-Agricultural Cooperative Act, whether converted under this Decree or not.

(c) "Public service entities" shall mean (1) a cooperative, (2) the NPC, and (3) local governments and privately-owned public service entities in operation which furnish and are empowered to furnish retail electric service.

(d) "Person" shall mean any natural person, firm, association, cooperative, corporation, business trust, partnership, the National Government or any political subdivision, agency or instrumentality thereof.

(e) "Service" shall mean electric service, either at wholesale or retail, including the furnishing of any auxiliary or related service;

(f) "Dependable and adequate service" shall mean service that, consistent with normal standards and levels of service based upon good utility management and operating practices, is sufficient .in quantity, having regard for the demands for service currently existing and reasonably anticipated within the foreseeable future, and that is accessible on a constant and continuous basis except for outages occasioned by the need for normal repair, maintenance, construction or renovation work or by acts beyond the reasonable ability of the public service entity to prevent or control.

(g) "Area" shall mean (1) the geographic area franchised to a public service entity or (2) any lesser geographic area for the furnishing of retail service to which a public service entity pursuant to this Decree borrows, or may apply to borrow, funds from the NEA, or may otherwise secure loans with the approval of the NEA, to finance the acquisition or construction and operation, maintenance or renovation of service facilities.

(h) "Area coverage" shall mean dependable and adequate service that, on the basis of reasonable and standard extension and service policies, rates, charges and other terms and conditions, will be or is being made available to all persons within the affected area as above defined who request such service and are able and willing to abide by and comply with all such reasonable and standard terms and conditions, regardless of the relative location of such persons within the affected area or of their proximity to existing or proposed service facilities: *Provided*, that the financial feasibility of the public service entity's entire operation is not thereby impaired.

(i) "Interest rate per centum per annum" shall mean an interest rate that is accrued solely upon the unpaid balance of any loan principal which has actually been advanced to a borrower and upon any interest payment which has Become due or been deferred and has not been paid by the borrower, computed on an annual basis.

(j) "Loan" shall mean a loan the total principal amount of which, as and when required for application to the purposes thereof, is, at the time of

the making thereof, assured from funds that are or will become available therefor.

(k) "NEDA" shall mean National Economic and Development Authority or any successor instrumentality that may hereafter be established to perform the same or substantially similar function; "NPC" shall mean National Power Corporation, and "NEDA-FS" shall mean National Economic and Development Authority-Foreign Source.

(l) "Board of Power and Waterworks" shall mean Board of Power and Waterworks or any successor board, agency or instrumentality that may hereafter be established to perform the same or substantially similar functions.

(m) "Franchise" shall mean the privilege extended to a person to operate an electric system for service to the public at retail within a described geographic area, whether such privilege had been granted by the Congress, by a municipal, city or provincial government or, as herein *provided*, by the NEA.

(n) "Non-profit" shall mean that a cooperative shall not engage in business for the purpose of making a profit for itself or its patrons, but it shall not mean that a cooperative may not account on a patronage basis to its patrons for any receipts in excess of its expenses in relation to its operations in serving such patrons or in relation to investment of any of its surplus funds pending their use by the cooperative or their refund to patrons; nor shall it mean such excess receipts may not be refunded to its patrons, or may not be converted into patron-furnished capital subject to later redemption and retirement by the cooperative.

(o) "Board" shall mean the board of directors of a cooperative.

(p) "Household" shall mean a non-seasonal dwelling, capable of receiving service safely, including apartments and other dwelling combinations.

(q) "Congress" shall mean the President during his exercise of Martial Law, or the National Assembly under the new Constitution of 1973, whichever is the case at any given time.

(r) "President" shall mean the President of the Philippines during the existence of Martial Law, or the Prime Minister when the National Assembly comes into existence.

Chapter II - THE NATIONAL ELECTRIFICATION ADMINISTRATION

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

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

- (b) To prescribe and thereafter to amend and repeal its by-laws not inconsistent with this Decree;
- (c) To adopt and use a seal and alter it at its pleasure;
- (d) To sue and be sued in any court: *Provided*, That NEA shall, unless it consents otherwise, be immune to suits for acts ex delicti;
- (e) To make contract of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business;
- (f) To make loans to public service entities, with preference to cooperatives, for the construction or acquisition, operation and maintenance of generation, transmission and distribution facilities and all related properties, equipment, machinery, fixtures, and materials for the purpose of supplying area coverage service, and thereafter to make loans for the restoration, improvement or enlargement of such facilities: *Provided*, That the public service entity applying for a loan, if neither a cooperative nor a local government, must be in operation at the time of application;
- (g) To promote, encourage and assist public service entities and government agencies and corporations having related functions and purposes, with preference to cooperatives, in planning, developing, coordinating, establishing, operating, maintaining, repairing and renovating facilities and systems to supply area coverage service, and for such purpose to furnish, to the extent possible and without charge therefor, technical and professional assistance and guidance, information, data and the results of any investigation, study, or report conducted or made by the NEA;
- (h) To approve or disapprove any loan from other lenders to public service entities which at the time are borrowers from NEA under sub-paragraphs (f) or (i) of this Section, and thereafter, pursuant to Section 10 (b) to disapprove advances of loans from other lenders;
- (i) To make loans for the purpose of financing the wiring of premises of persons served or to be served as a result of loans made under sub-paragraph (f) of this Section, and for the acquisition and installation by such persons of electrically-powered appliances, equipment, fixtures and machinery of all kinds for residential, recreational, commercial, agricultural and industrial uses, such loans to be made directly (1) to public service entities which have received loans under sub-paragraph (f) of this Section, which entities shall in turn relend such funds to persons served or to be served by them, or (2) to any person served or to be served by public service entities which have received loans under sub-paragraph (f) of this Section: *Provided*, That at no time shall the total loans made under this sub-paragraph (i) to a public service entity and/or to persons served or to be served by such entity exceed twenty-five (25%) per centum of the outstanding loans to such entity made under sub-paragraph (f) of this Section;
- (j) To so cooperate, coordinate and exchange such information, studies and reports with, and to seek such cooperation and coordination from,