

[REPUBLIC ACT NO. 10531, May 07, 2013]

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

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

CHAPTER I
POLICY AND DEFINITIONS

SECTION 1. This Act shall be known as the "National Electrification Administration Reform Act of 2013?."

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

"SEC. 2. *Declaration of National 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 National Electrification Administration (NEA) to pursue the electrification program and bring electricity, through the electric cooperatives as its implementing arm, to the countryside even in missionary or economically unviable areas;

"(c) empower and enable electric cooperatives 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?."

SEC. 3. A new section is hereby inserted under Presidential Decree No. 269, as amended, to be designated as Section 2-A, to read as follows:

"SEC. 2-A. *Scope.* – This Act shall establish a framework for introducing structural, reforms in the NEA and the electric cooperatives."

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

"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:

"x x x

"(s) 'CDA' shall refer to the Cooperative Development Authority created under Republic Act No. 6939, as amended.

"(t) 'DOE' shall refer to the Department of Energy created under Republic Act No. 7638, as amended.

"(u) 'Electric cooperative' shall refer to an electric distribution utility organized and registered pursuant to Presidential Decree No. 269, as amended, Republic Act No. 9520, and other related laws.

"(v) 'EPIRA' shall refer to Republic Act No. 9136 or the 'Electric Power Industry Reform Act of 2001'.

"(w) 'ERC' shall refer to the Energy Regulatory Commission created under Section 38 of Republic Act No. 9136."

CHAPTER II THE NATIONAL ELECTRIFICATION ADMINISTRATION

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

"SEC. 4. *Powers, Functions and Privileges of the National Electrification Administration.* – To strengthen the electric cooperatives, help them become economically viable and prepare them for the implementation of retail competition and open access pursuant to Section 31 of the EPIRA, the NEA 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 electric cooperatives;

"(f) exercise step-in rights as herein defined;

"(g) provide institutional, financial and technical assistance to electric cooperatives upon request of the electric cooperatives;

"(h) pursue the total electrification of the country through the electric cooperatives by way of enhancing distribution development and, in case of missionary areas, shall be done in coordination with the National Power Corporation – Small Power Utilities Group (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 this Act;

“(j) ensure the economic and financial viability and operation of all electric cooperatives;

“(k) restructure ailing electric cooperatives 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 electric cooperatives 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 electric cooperatives, 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 this Act and its implementing rules and regulations (IRR);

“(n) serve as guarantor to qualified electric cooperatives in their transactions with various parties such as, but not limited to, co-signing in power supply contracts;

“(o) grant loans to electric cooperatives, for the construction or acquisition, operation and maintenance of subtransmission 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 electric cooperative officers, election disputes and all matters relating to the effective implementation of the provisions of this 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.

“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 (250,000,000) shares with a par value of One hundred pesos (P100.00).”

SEC. 6. A new section, to be designated as Section 4-A, is hereby inserted under Presidential Decree No. 269, as amended to read as follows:

“SEC. 4-A. *Supervisory Powers of the NEA Over Electric Cooperatives.* – In the exercise of its power of supervision over electric cooperatives, the NEA shall have the following 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 electric cooperatives;

“(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 electric cooperative, as the NEA may deem fit and necessary and to take any other remedial measures as the law or any agreement or arrangement with NEA may provide, to attain the objectives of this Act: and

“(c) appoint independent board of directors in the electric cooperative.

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

SEC. 7. A new section, to be designated as Section 4-B, is hereby inserted under Presidential Decree No. 269, as amended, to read as follows:

“SEC. 4-B. *Step-in Rights in Cases of Ailing Cooperatives.* – The NEA shall immediately step-in and take over from its Board the operations of any ailing electric cooperative. Within a reasonable period after take-over, the NEA may convert the ailing cooperative to either a stock cooperative registered with the CDA or a stock corporation registered with the Securities and Exchange Commission (SEC).

“The NEA shall in determining the propriety of the conversion, be guided by the ability of the member-consumers of said electric cooperative to pay for their shares in the stock cooperative or stock corporation.

“The NEA may appoint or assign third persons to the Board of the electric cooperative until the NEA decides that the election of a new board of directors to manage the electric cooperative is necessary. The NEA may create a management team for the purpose.

“The NEA shall, in the exercise of its step-in rights under this Act, strictly observe due process of law. The step-in rights may only be exercised by the NEA in case of failure of the electric cooperative to meet operational and financial standards set by the NEA or in other analogous instances set forth in the IRR of this Act.”

SEC. 8. A new section, to be designated as Section 4-C, is hereby inserted under Presidential Decree No. 269, as amended, to read as follows:

“SEC. 4-C. *Injunction or Temporary Restraining Order.* – No injunction or temporary restraining order shall be issued against the implementation of any order, ruling or decision of the NEA, 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.”

CHAPTER III ELECTRIC COOPERATIVES

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