

[REPUBLIC ACT NO. 6038, July 28, 1969]

AN ACT DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, PROVIDING FOR THE ORGANIZATION OF THE NATIONAL ELECTRIFICATION ADMINISTRATION, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATION, THE REPEAL OF R. A. NO. 2717, AND FOR OTHER PURPOSES.

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

CHAPTER I.— POLICY AND DEFINITIONS

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

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 diligently to pursue 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 the Congress having, by the enactment of this Act, 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.

SEC. 3. *Definitions.*— As used in this Act, 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, provided for in this Act. b. "Cooperative" shall mean a corporation organized under this Act 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 Act or not.

c. "Public service entities" shall mean (1) a cooperative and (2) any local government or (3) other privately-owned public service entities in operation which supply and are empowered to supply service and are subject to regulation by the Public Service Commission.

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 the geographic area franchised to a public service entity or any lesser geographic area for service to which the public service entity has borrowed or may borrow funds for 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. "GSIS", "SSS", "DBP", "NEC", "NEC-FS" and "NPC" shall mean, respectively, Government Service Insurance System, Social Security System, Development Bank of the Philippines, National Economic Council, National Economic Council-Foreign Source and National Power

Corporation.

l. "Average interest rate" shall mean that average which is determined by dividing (a) the sum of the yearly interest payment applying to all outstanding borrowed indebtedness and of the yearly interest payment that will apply to the new borrowed indebtedness being proposed (but excluding interest that will or may be paid on deferred or overdue interest payments) by (b) the sum of all outstanding borrowed indebtedness and the new borrowed indebtedness being proposed.

m. "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 investments of any of its surplus funds pending their use by the cooperative or their refund to patrons; nor shall it mean that 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.

n. "Board" shall mean the board of directors of a cooperative.

CHAPTER II.— THE NATIONAL ELECTRIFICATION ADMINISTRATION

SEC. 4. *National Electrification Administration.*— Board of Administrators.— For the purpose of administering the provisions of this Act there is hereby established an agency to be known as the National Electrification Administration, the powers of which shall be vested in and exercised by a Board of Administrators composed of a Chairman and four members, one of whom shall be the Administrator, as *ex-officio* member. The Chairman and the three other members shall be appointed by the President of the Philippines with the consent of the Commission on Appointments to serve for a term of six years: *Provided*, That the terms of the first appointees shall be six years for the Chairman and one member and three years for two members, respectively, and that the term of the *ex-officio* member shall be co-terminous with his term as the Administrator. All vacancies, except through expiration of the term, shall be filled for the unexpired term only. The Chairman and every member of the Board of Administrators shall serve without compensation and any form of allowances but, unless he is a public official or employee, shall be entitled to a *per diem* of not more than fifty pesos for each meeting actually attended by him: *Provided*, That the total of such per diems shall not exceed five hundred pesos per month per member.

The Board of Administrators shall meet regularly at least twice a month and as often as the exigencies of the NEA's affairs demand. The presence of at least three members shall constitute a *quorum* which shall be necessary for the transaction of any business. The affirmative vote of a majority of the members present shall be necessary for the approval of any resolution, decision or order of the Board. In the absence of the Chairman at a Board meeting duly called, the Administrator, as *ex-officio* member shall preside over the meeting.

The Board of Administrators is hereby authorized to carry out the provisions and purposes of this Act, and, subject to the approval of the President, to promulgate rules and regulations to govern its proceedings and the exercise of the NEA's

authority, to organize, reorganize and determine the NEA's personnel and its staffing pattern, and to define their powers and duties.

The Board of Administrators shall have under its control and supervision an Administrator who shall serve as the Chief Executive Officer of the NEA responsible for carrying out its purposes and programs under the direction of the Board of Administrators, exercise such power and authority as the Board may delegate to him, and perform such acts as he is under this Act authorized and directed and as the Board may authorize and/or direct him so to do. The Administrator shall be a person of known integrity, competence and experience in technical and executive fields related to the purposes of this Act. He shall be appointed by the President of the Philippines with the consent of the Commission on Appointments and shall receive a salary to be fixed by the Board of Administrators with the approval of the President not exceeding twenty four thousand pesos *per annum*. He shall serve for a term of six years and shall not be removable except for cause.

SEC. 5. *Authorities, Powers and Directives.*— The Board of Administrators 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 Act, specifically authorized, empowered and directed:

- (a) To make loans to public service entities, with preference to cooperatives, for the construction or acquisition of generating, 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;
- (b) To assist public service entities, with preference to cooperatives, in planning, developing, coordinating, establishing, operating, maintaining, repairing and renovating facilities and systems for supplying area coverage service, and for such purpose to furnish, to the extent possible from the NEA technical staff and otherwise but without charge therefor, technical and professional assistance and guidance, information, data and the results of any investigations, studies or reports conducted or made by the NEA;
- (c) When sufficient funds therefor are not available from the revolving fund hereinafter established, to serve, without charge for such service, as the agent of public service entities which are cooperatives or local governments in securing loans directly to such entities from any other source for the same purposes for which NEA loans are authorized in subparagraph (a) of this section; and to approve or disapprove any other loans to cooperatives as provided for in section 11 of this Act;
- (d) To receive from cooperatives all articles of incorporation, amendment, consolidation, merger, conversion and dissolution, and all certificates of changes in the location of principal offices and of elections to dissolve, and, upon determining that such are in conformity with this Act, to certify

the same, to file them in the records of the NEA, and to maintain a registry of such filing: *Provided*, That the duties specified in this subsection shall be performed by the Administrator under the supervision of the Board of Administrators;

(e) To so cooperate and coordinate the NEA's administration with, to exchange such information, studies and reports with, and to seek ,such cooperation and coordination from, other departments, agencies and instrumentalities of the National Government, including the National Power Corporation, as will most effectively conduce to the achievement of the purposes of this Act; and

(f) At least annually, not later than January 31st, to report to the President and the Congress on the status of electrification of the Philippines, including a comprehensive reporting of loans made, loan funds advanced, loans secured from other sources and the advances thereof, the names and locations of the borrowers, the number of services contemplated by such loans, the number actually receiving service as a result of such loans, the number of electrified and the remaining number of un-electrified premises throughout the Nation, the amounts of usage by consumers, loan and other activities programmed for the ensuing year, and all such other information and data as will accurately reveal the progress being made toward achievement of the purposes of this Act; and to publish such report for dissemination to and use by other interested departments, agencies and instrumentalities of the National Government and by borrowers under this Act.

SEC. 6. *Loans from GSIS, SSS and DBP.*— The GSIS, SSS and DBP are hereby authorized, empowered and directed to make loans directly to public service entities for the same purposes for which NEA loans are authorized in sub-paragraph (a) of section live. Any other provision of law to the contrary notwithstanding, such a loan shall be made by any of the foregoing three whenever:

(a) Application for such loan has been made to it on behalf of such entity by the Administrator, accompanied by his determination and certification that

(1) sufficient funds for such a loan are not available out of the revolving fund hereinafter established;

(2) such loan is necessary to enable the borrower to accomplish the loan purposes established in subparagraph (a) of section live;

(3) in his judgment the loan will be repaid with interest on schedule and will not result in any diminution of the security of, or of the ability of the borrower to repay, any outstanding indebtedness of the borrower to the NEA or any other lending source below the level of such security and ability were such additional borrowing not being undertaken;

(4) no lender other than the NEA or if such be the case the lender being applied to, then holds or has the right to secure a first lien on the properties of the borrower to be financed by such loan; and

(5) his willingness in relation to the properties to be financed by such loan, (A) to release any after-acquired property clause in any lien the NEA already has on the borrower's properties to, or (B) to share any such