

[NEA, May 19, 2005]

**THE NEW ADMINISTRATIVE RULES OF PROCEDURES OF THE NATIONAL ELECTRIFICATION
ADMINISTRATION AND ITS ADMINISTRATIVE COMMITTEE**

Pursuant to the provisions of Section 5 sub-paragraph No. 2 of Presidential Decree No. 269, as amended and Section 5, Presidential Decree 1645, the following rules of procedure governing review, investigations, referenda, hearings, proceedings and other similar actions before the National Electrification Administration (NEA) and its Administrative Committee (ADCOM) in all matters affecting Electric Cooperatives in the Philippines is hereby adopted and promulgated.

**RULE I
TITLE AND CONSTRUCTION**

SECTION 1. Title of the Rules. -These Rules shall be known as the Rules of Procedure of the National Electrification Administration on all administrative cases of Electric Cooperatives' Board of Directors, officers and employees.

SECTION 2. Construction. - These Rules shall be liberally construed to carry out the objectives of the Constitution, the Presidential Decree 269, as amended by Presidential Decree 1645, Republic Act 9136 otherwise known as the Electric Power Industry Reform Act and other relevant legislations, and to assist the parties in the Electric Cooperatives, its member-consumers in obtaining just, expeditious and inexpensive settlement of their respective disputes.

SECTION 3. Suppletory Application of Rules of Court. - In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Constitution, the Presidential Decree 269, as amended by Presidential Decree 1645, Republic Act 9136 otherwise known as the EPIRA LAW and other relevant legislations, the pertinent provisions of the Revised Rules of Court of the Philippines may, in the interest of expeditious administrative justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

**RULE II
DEFINITION OF TERMS**

SECTION 1. Definitions. - The terms and phrases defined in the Presidential Decree 269, as amended by Presidential Decree 1465 shall be given the same meanings when used herein.

- (a) "NEA" shall mean the Board of Administrators of the National Electrification Administration;
- (b) "NATIONAL ELECTRIFICATION ADMINISTRATION (NEA) ADMINISTRATIVE COMMITTEE" shall mean the NEA-ADCOM or any of the Hearing Officer Authorized by NEA;
- (c) "FORUM SHOPPING" refers to the filing of an administrative action or complaint before another agency or any tribunal against the same party involving the same acts or causes of action and relief.

**RULE III
PLEADINGS, NOTICES AND APPEARANCES**

SECTION 1. Complaint. - A complaint against any or all members of the Board of Directors, General Manager and other officials of ECs shall not be given due course unless it is in writing and subscribed and sworn to by the complainant[s] with payment of filing fee. However, in cases initiated by the NEA, the complaint need not be under oath;

A party having more than one cause of action against the other party, arising out of the same relationship, shall include all of them in one complaint or petition.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

SECTION 2. Caption and Title. - In all cases filed with the NEA-ADCOM, the party initiating the action shall be called the "Complainant" or "Petitioner", and the opposing party the "Respondent". The Complaint shall contain the following:

- (a) Full name and address of the complainant;
- (b) Full name and address of the person complained of as well as his position;
- (c) A narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- (d) Certified true copies of documentary evidence and affidavits of his witnesses, if any; and,
- (e) Certification or statement of non-forum shopping.

SECTION 3. Issuance of Summons. - Within two (2) days from receipt of the complaint, the Hearing Officer and/or the NEA-ADCOM shall issue the required summons, attaching thereto a copy of the complaint/petition and supporting documents, if any. The summons, together with a copy of the complaint, shall specify the date when to file an answer/comment which shall be submitted within a period of ten (10) days from receipt thereof.

SECTION 4. Prohibited Pleadings and Motions. - The following pleadings, motions or petitions shall not be allowed in the cases covered by these Rules:

- (a) Motion to Dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, improper venue, res adjudicata, prescription and forum shopping;
- (b) Motion for a Bill of Particulars;
- (c) Motion for New Trial;

(d) Petition for Relief from Judgment when filed with the Hearing Officer or NEA-ADCOM;

(e) Petition for Certiorari, Mandamus or Prohibition;

(f) Motion to Declare Respondent/s in Default.

SECTION 5. Filing and Service of Pleadings. - The "Answer" which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including, documentary evidence, sworn statement covering testimonies of witnesses, if there be any, in support of his/her case. It shall also include a statement indicating whether or not he elects a formal investigation. The Answer shall be submitted within a period of ten (10) days from receipt of the summons with the complaint.

All pleadings in connection with the case shall be filed with the appropriate docketing unit of the NEA-ADCOM, as the case maybe.

The party filing the pleadings shall serve the opposing party/ies with a copy thereof and its supporting documents in the manner provided for in these Rules with proof of service thereof.

SECTION 6. Failure to File an Answer. - If the respondent fails to file his answer to the complaint within the reglementary period, he shall be considered to have waived his right thereto and formal hearing and investigation may commence.

SECTION 7. Service of Notices and Resolution. - (a) Notices or summonses and copies of orders, shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; provided that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court: Provided, further, That in cases of decisions and final awards, copies thereof shall be served on both parties and their counsel/representative by registered mail; Provided, further, That in cases where a party to a case or his counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected upon actual receipt thereof: Provided, finally, That where parties are so numerous, service shall be made on counsel and upon such number of complainants, as maybe practicable.

(b) The bailiff or officer serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date of receipt, which return shall be immediately attached and shall form part of the records of the case. In case of service by registered mail, the bailiff or officer shall write in the return, the names of persons served and the date of mailing of the resolution or decision. If no service was effected, the service officer shall state the reason therefore in the return.

SECTION 8. Proof and Completeness of Service. - The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

SECTION 9. Appearances. - An attorney appearing for a party is presumed to be properly authorized for that purpose. However, he shall be required to indicate in his pleadings his PTR and IBP numbers for the current year, and his roll number appearing in rolls of attorney.

A non-lawyer may appear before the NEA-ADCOM or any hearing officer only if:

(a) he represents himself-as party to the case, or;

(b) he is a duly-accredited member of any legal aid office duly recognized by the Department of Justice or Integrated Bar of the Philippines

Appearances may be made orally or in writing. In both cases, the complete name and office address, of both parties shall be made on record and the adverse party or his counsel/representative properly notified.

Any change in the address of counsel/representative should be filed with the records of the case and furnished the adverse party or counsel.

Any change or withdrawal of counsel/representative shall be made in accordance with the Rules of Court

SECTION 10. Authority to Bind Party. - Attorneys and other representatives of parties shall have authority to bind their clients in all matters of procedure; but they cannot, without a special power of attorney or express consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's claim.

RULE IV

VENUE, ASSIGNMENT AND DISPOSITION OF CASES

SECTION 1. Venue. - (a) All cases which a NEA-ADCOM or Hearing Officer have authority to hear and recommend for decision may be filed only in the Office of the National Electrification Administration, Legal Department at Quezon City, Metro Manila.

SECTION 2. Raffle and Assignment of Cases. - All complaints and petitions received by the docket section of the NEA-ADCOM, Office of the Deputy Administrator for Legal Services shall within a period of twenty-four (24) hours from receipt thereof be raffled and assigned to a member of the ADCOM or any hearing officer.

NEA-ADCOM may assume jurisdiction over such cases or assign the same to Hearing Officer who, in its opinion, can effect immediate settlement or adjudication of. the cases.

All pleadings subsequent to the filing of the complaint shall be forwarded to the NEA-ADCOM or any Hearing Officer before whom the case is pending within twenty-four (24) hours from receipt thereof.

SECTION 3. Consolidation of Cases/Complaints. - Where there are two or more cases/complaints pending before different NEA-ADCOM or Hearing Officer involving the same parties and common principal causes of action or the same parties with different causes of action, the subsequent cases/complaints shall be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases/complaints shall be disposed of by the NEA-ADCOM or Hearing Officer or to whom the first case was assigned.

In case of objection to the consolidation, the same shall be resolved by the NEA-ADCOM. An order resolving the motion shall be inappealable.

SECTION 4. Disposition of Cases. - When a case is assigned to a NEA-ADCOM or Hearing Officer or, the entire case and any or all incidents thereto shall be considered assigned to him; and the same shall be disposed of in the same proceedings to avoid multiplicity of suits or proceedings.

RULE V
PROCEEDINGS BEFORE THE NEA-ADCOM OR HEARING OFFICER

SECTION 1. Mandatory Conciliation/Mediation Conference. - Within two (2) days from receipt of an assigned case, the NEA-ADCOM or Hearing Officer shall issue the summons ordering the respondent/s to file his answer within the period provided for in the rules. Thereafter, summons shall be issued to the parties for a conference, for the purpose of amicably settling the case, determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulations of facts and threshing out all other preliminary matters. .

Conciliation and mediation efforts shall be exerted by the NEA-ADCOM OR Hearing Officer all throughout the proceedings. Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsel, or authorized representative, if any, before the NEA-ADCOM or Hearing Officer.

The compromise settlement shall be approved by the NEA Administrator, upon the recommendation of the NEA ADCOM after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof.

A compromise agreement entered into by the parties not in the presence of the NEA-ADCOM or Hearing Officer before whom the case is pending shall be approved by NEA Administrator upon the recommendation of the NEA-ADCOM if after, confronting the parties, particularly the complainant/s, is satisfied that they understand the terms and conditions of the settlement and that it was entered into freely and voluntarily by them and the agreement is not contrary to law, morals, and public policy.

A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties and the Order approving it shall have the effect of a judgment rendered by the NEA Board of Administrators. Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the conference/s, the NEA-ADCOM or Hearing Officer shall issue an order stating therein the matters taken up and agreed upon during the conference/s and directing the parties to simultaneously file their respective verified position papers.

The mandatory conferences shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference.

No motion for postponement shall be entertained except on meritorious grounds. Non-appearance of the complainant/s during the two (2) scheduled hearings for mediation/conciliation conference shall be a ground for the dismissal of the case without prejudice.

In case of non-appearance of the respondent/s during the first conference, a second conference shall proceed. Non-appearance of the respondent during the second conference shall immediately terminate the mandatory conciliation/mediation conference. The complainant shall thereupon be allowed to file his position paper as well as submit

evidence in support of his cause or causes of action after which, the NEA-Board of Administrators through NEA-ADCOM or Hearing Officer shall render its decision on the basis of the evidence on record.

SECTION 2. Intervention. - (a) Who may intervene - A person who has a legal interest in the matter in litigation or in the success of either of the parties, or an interest against both, may, with leave of the ADCOM, be allowed to intervene in the action. The Administrative Committee (ADCOM) or any hearing officer shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

(b) Time to intervene - The motion to intervene may be filed at any time before rendition of judgment by the NEA Board of Administrators, or the NEA-ADCOM by authority of the latter. A copy of the pleading - intervention shall be attached to the motion and served on the original parties.

(c) Pleadings-in-intervention - The intervenor shall file a complaint-in-intervention if he asserts a claim against either or all of the original parties, or an answer-in-intervention if he unites with the defending party in resisting a claim against the latter.

(d) Answer to complaint-in-intervention - The answer to the complaint-in-intervention shall be filed within ten {10} days from notice of the order admitting the same, unless a different period is fixed by the Administrative Committee (ADCOM) or hearing officer.

SECTION 3. Submission of Position Papers/Memoranda. - Without prejudice to the provisions of the last paragraph, Section 2, of this Rule, the NEA-ADCOM or Hearing Officer shall direct both parties to submit simultaneously their position papers with supporting documents and affidavits within an inextendible period of ten (10) days from notice of termination of the mandatory conference.

These verified position papers to be submitted shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony. The parties shall thereafter not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause or causes of action not included in the complaint or position papers, affidavits and other documents.

SECTION 4. Determination of Necessity of Hearing. - Immediately after the submission by the parties of their position papers/memoranda, the NEA-ADCOM or Hearing Officer shall, motu proprio, determine whether there is a need for a formal trial or hearing. At this stage, it may, at its discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

SECTION 5. Nature of Proceedings. - The proceedings before the NEA-ADCOM or Hearing Officer shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The NEA-ADCOM or any Hearing Officer may avail itself or himself / herself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 6. Role of NEA-ADCOM or Hearing Officer in Proceedings - The NEA-ADCOM or Hearing Officer shall personally conduct the conferences/hearings. Except as provided by law, the NEA-ADCOM or Hearing Officer shall determine the order of presentation of