

[**NEA, October 05, 2005**]

AMENDED GUIDELINES IN THE CONDUCT OF REFERENDUM

Pursuant to the provisions of Subparagraph (i), Paragraph (c), Section 7, Structural and Operational Reforms Between and Among Utilities of Rule 7, Distribution Sector, of the Implementing Rules and Regulations implementing Chapter VII, Section 57 Conversion of Electric Cooperatives of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, the National Electrification Administration (NEA) hereby promulgates, in accordance with its rule-making power provided under Section 5 of Presidential Decree No. 1645, the following Guidelines in the Conduct of Referendum in regard to the option given to electric cooperatives (ECs) to convert into either stock cooperative under the Cooperatives Development Act or a stock corporation under the Corporation Code.

CHAPTER I
Definition of Terms

Article 1. As used these guidelines, the following shall be construed to have the following respective meanings:

- (a) "Act" - unless otherwise stated, refers to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001";
- (b) "Bonafide Member" - refers to a person that has met all requirements set forth under the applicable EC by-laws and has been enlisted as such, with voting rights under the "one-man-one-vote" cooperative principle;
- (c) "Conversion" _ refers to a change in the corporate form of the ECs, from being non-stock, non-profit, to being either stock cooperative or stock corporation as herein defined, resulting in the creation of a successor entity as such;
- (d) "Cooperative Code" _ refers to Republic Act No. 6938;
- (e) "Corporate Development Authority" or "CDA" _ refers to the entity created Under Republic Act No. 6939;
- (f) "Corporation Code" _ refers to Batas Pambansa Bilang 68, otherwise known as "The Corporation Code of the Philippines";
- (g) "District" _ refers to a town/municipality, or to a city, or to a portion thereof, or to a group of towns/municipalities contiguously located, within the coverage area of an EC, as defined in the by-laws of the EC;
- (h) "District Meeting" refers to a gathering of the bonafide members of an EC from a particular district , and held within the geographical confines of such district;
- (i) "Electric Cooperative" or "EC" _ refers to a Distribution Utility organized pursuant to Presidential Decree No. 269, as amended by Presidential Decree No. 1645;
- (j) "General Assembly" _ refers to a gathering of all the bonafide members coming from all districts of an EC held within its coverage area, and usually conducted based on the annual schedule prescribed in the EC by-laws;
- (k) "Membership Meetings" _ refer to a gathering of bonafide members of an EC, either as General Assembly, or as a District Meeting;
- (l) "National Electrification Administration" or "NEA" _ refers to the government agency created under Presidential Decree No. 269, as amended, with additional mandate set forth in the Act;
- (m) "Person" refers to a natural or judicial person, as the case may be;
- (n) "Philippine Rural Electric Cooperatives Association, Inc." or "PHILRECA" _ refers to the National Association of EC's operating nationwide;
- (o) "Referendum" - refers to an electoral process during which Bonafide Members of ECs register their respective votes on the issue of conversion through secret balloting, in designated voting centers, the conduct of which shall be under the supervision of NEA;
- (p) "Secret Balloting" _ system of casting a vote by a bonafide member wherein his/her choice on the issue is registered in writing, and in private, on the prescribed ballot;
- (q) "Securities and Exchange Commission" or "SEC" _ refers to the government agency created under Commonwealth Act No. 83;
- (r) "Stock Cooperative" _ refers to a duly-registered association of Persons with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with the universally-accepted cooperative principles as defined under Article 4, Chapter I of the Republic Act No. 6938, otherwise known as the "Cooperative Code of the Philippines";
- (s) "Stock Corporation" _ refers to an artificial being created by operation of law, with capital stock divided into shares, and authorized to distribute to its shareholders dividend out of its surplus profits, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence; and

CHAPTER II
General Provisions

Article 2. *Massive Information Campaign.* Prior to the conduct of a referendum, the electric cooperative Board of Directors and Management shall endeavor to undertake, in coordination with the NEA, CDA, SEC and PHILRECA, a massive information campaign, at the district level, or in each town/municipality within the EC's coverage area, in order to educate its member-consumers on the advantages and disadvantages, as well as the benefits and limitations, of conversion into either a stock cooperative or a stock corporation, vis-à-vis its present corporate form as a non-stock non-profit electric cooperative.

The information campaign shall likewise seek to inculcate into the minds of the member-consumer, the corporation and cooperative principles, and to apprise them of their rights, duties and obligations under the Corporation Code, the Cooperative Code and P.D. No. 269, as amended.

Article 3. *Types of Membership Meetings.* At any single time, membership meetings can take the form of a General Assembly or a District Meeting.

Article 4. *Methods of Conduct of a Series of Membership Meetings and Referendum.* For purposes of consulting the member-consumers on the conversion issue, the series of district meetings may be undertaken:

4.1 Simultaneously _ wherein meetings are held on the same day at various venues (barangay's); or

4.2 Sequentially _ wherein meetings are held one after the other in different venues (barangay's).

Article 5. *Notice of Membership Meetings.* Aside from print and broadcast media available within the coop coverage area, written notices with the complete information for the meeting shall be mailed or delivered to the address of the member-consumers in addition to those that shall be posted in strategic areas of the district, not later than ten (10) days before the scheduled meeting.

Article 6. *Masterlist of Voters.* A sanitized masterlist of bonafide members entitled to vote in each district shall be prepared by the electric cooperative officials and employees concerned and shall be the basis for determining the attendance or turn-out of voters in each meeting held, whether simultaneous or sequential.

Article 7. *Required Number of Votes for Conversion.* The approval of at least a simple majority, or fifty percentum (50%) plus one of the required number of turn-out of voters or quorum in a referendum conducted for such purpose (AS PROVIDED IN RULE 7, SECTION 7, [c] [i] OF IRR R.A. 9136), shall be considered a valid decision for conversion. The required quorum to conduct a valid referendum shall be at least a majority of all bonafide members of the electric cooperative.

Article 8. *Voting System*

8.1 Each bonafide member shall be entitled to only one (1) vote.

8.2 Voting shall be done through "secret balloting"

8.3 No proxy voting shall be allowed.

Article 9. *Over-all Decision.* The final decision as to whether or not the coop will convert shall be based on the majority decision as culled from the result of the general assembly, or the cumulative results of the district assembly meetings, as the case may be.

CHAPTER III Procedure/Mechanics

Article 10. *In-House Activities*

10.1 Board Resolution scheduling the district(s) date(s), venue(s) and time of the assembly must be passed by the Board of Directors;

10.2 Board Resolution appropriating the corresponding budget for the Activities is imperative;

10.3 The concerned departments of the coop shall prepare and execute the requirements set under the said Board Resolutions;

10.4 The Institutional Services Department shall prepare in not less than twenty-five (25) days before the General Assembly or District Meetings the sanitized masterlist of voters in alphabetical order and classified according to districts, municipalities and barangays to facilitate registration and voting; and

10.5 The Board Member of the concerned district shall be responsible in ensuring the success of the assembly/referendum/assembly in that district; and shall likewise preside in the district assembly meeting/s.

Article 11. *Major Activities in the Program*

11.1 Determination of attendance from the registration of voters.

Only bonafide members shall be allowed to register in the masterlist prepared by the electric cooperative.

(a) Where meetings are held simultaneously (meetings held on the same day at various venues/barangays), the total number of votes shall be determined on a cumulative basis;

(b) Where meetings are held sequentially (meetings held one after the other in different days in different venues/barangays), the same procedure in (a.1) shall be followed.

11.2 Introduction by the Presiding officer

11.3 Presentation of the issues related to conversion

(a) Presentation of the historical profile of the cooperative

(b) Presentation for the positive side/advantages

(c) Presentation for the negative side/disadvantages

(d) Open Forum