

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

— ■ —
[REPUBLIC ACT NO. 10531]

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:

"SEC. 16. *Powers.* - A cooperative is hereby vested with all powers necessary or convenient for the accomplishment of its corporate purpose and capable of being delegated by the President or the National Assembly when it comes into existence; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class as those so enumerated. Such powers shall include, but not be limited to, the power:

"x x x

"(j) To construct, acquire, own, operate and maintain electric subtransmission and distribution lines along, upon, under and across publicly owned lands and public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges and causeways. In the event of the need of such lands and thoroughfares for the primary purpose of the government, the electric cooperative shall be properly compensated;

"(j-1) To construct, acquire, own, operate and maintain generating facilities within its franchise area. In pursuance thereof, where an electric cooperative participates in a bid on an existing NPC-SPUG generating facility, its qualified bid shall be given preference in case of a tie: *Provided, however,* That in cases where there is no other qualified bidder, the lone bid shall remain as valid basis for the determination of the final award subject to the following conditions:

"(a) bid offer is not lower than the valuation of the assets using Commission on Audit (COA) rules and regulations;

“(b) electric cooperative is prepared to fully take over the generation function of the area from the NPC-SPUG; and

“(c) electric cooperative submits its graduation program from the Universal Charge for Missionary Electrification (UC-ME) subsidy.

“x x x.”

SEC. 10. A new section, to be designated as Section 26-A of Presidential Decree No. 269, as amended, is hereby inserted to read as follows:

“SEC. 26-A. *Independence of the Board of Directors and Officers of Electric Cooperatives.* – To ensure the long-term business and economic viability of electric cooperatives, the management, operations and strategic planning of electric cooperatives shall, as much as practicable, be insulated from local politics.

“Towards this end, no person shall be elected or appointed as an officer or be eligible to run as a board member of an electric cooperative if:

“(a) such person or his or her spouse holds any public office;

“(b) such person or his or her spouse has been a candidate in the last preceding local or national elections;

“(c) such person has been convicted by final judgment of a crime involving moral turpitude;

“(d) such person has been terminated for cause from public office or private employment;

“(e) such person is related to any member of the electric cooperative board of directors, general manager and department managers within the fourth civil degree of consanguinity or affinity;

“(f) such person is a representative of a juridical person; and

“(g) such person is employed by or financially interested in a competing enterprise or a business selling electric energy or electrical hardware to the cooperative or doing business with the cooperative, including the use or rental of poles.”

SEC. 11. A new section, to be designated as Section 26-B, is hereby inserted under Presidential Decree No. 269, as amended to read as follows:

“SEC. 26-B. *Fit and Proper Rule.* – To ensure that the management and operations of electric cooperatives are carried out with due regard to its economic viability, the NEA shall prescribe, pass upon and review the qualifications and disqualifications of individuals appointed or elected to electric cooperatives and disqualify those found unfit.

“A candidate’s integrity, experience, education, competence and probity shall be considered in determining whether he or she shall be fit and proper to become a director or officer of the electric cooperative.

“For this purpose, the minimum qualifications of a director or officer of the electric cooperative shall be as follows:

“(a) He or she is a Filipino citizen;

“(b) He or she is a graduate of a four (4)-year course;

“(c) He or she is between twenty-one (21) and seventy (70) years old, on the date of election;

“(d) He or she is of good moral character;

“(e) He or she is a member of the electric cooperative in good standing for the last five (5) years immediately preceding the election or appointment;

“(f) He or she is an actual resident and consumer in the district that he or she seeks to represent for at least two (2) years immediately preceding the election; and

“(g) He or she has attended at least two (2) Annual General Membership Assemblies (AGMA) for the last five (5) years immediately preceding the election or appointment.

“The NEA may, after due notice to the board of directors and officers of the electric cooperative, disqualify, suspend or remove any director or officer, who commits any act which renders him unfit for the position.”

SEC. 12. Section 32 of Presidential Decree No. 269, as amended, is hereby further amended to read as follows:

“SEC. 32. *Registration of All Electric Cooperatives.* – All electric cooperatives may choose to remain as a non-stock, non-profit cooperative or convert into and register as: (a) a stock cooperative under the CDA; or (b) a stock corporation under the SEC, in accordance with the guidelines to be included in the IRR of this Act.

“Such choice shall carry with it the attendant requirements of compliance with the laws and regulatory guidelines governing the respective government agencies having jurisdiction over their registration.

“Regardless of the choice made, the NEA shall have the authority over electric cooperatives, whether stock or non-stock, to require the submission of reportorial requirements as may be necessary relative to their operations as electric distribution utilities including, but not limited to:

“(a) Monthly Financial and Statistical Report (MFSR);

"(b) monthly separate MFSR, Monthly Engineering Report (MER) and barangay and *sitio* electrification report for electric cooperatives on grid with isolated area/s served by NPC-SPUG;

"(c) monthly status of barangay and *sitio* energization and house connections;

"(d) monthly Institutional Services Department (ISD) report;

"(e) monthly Performance Standard Monitoring Report (PSMR);

"(f) monthly summary of complaints received and acted upon;

"(g) monthly report on compliance with the Grid and Distribution Code;

"(h) Monthly Engineering Report (MER);

"(i) quarterly report on power supply contracts;

"(j) annual work plan;

"(k) annual Distribution Development Plan (DDP);

"(l) five (5)-year investment plan submitted annually;

"(m) annual Cash Operating Budget (COB);

"(n) audited financial statements;

"(o) annual Collective Bargaining Agreement (CBA) or Collective Negotiation Agreement (CNA); and

"(p) copy of Capital Expenditure (CAPEX) and Operating Expenditure (OPEX) plans.

“Likewise, the supervisory and oversight functions of the NEA, as may be detailed in this Act and its IRR, shall be applicable to both stock and non-stock cooperatives.

“Electric cooperatives which register with the CDA shall continue to enjoy the benefits under this Act.

“Existing electric cooperatives may likewise opt to register as stock corporations with the SEC: *Provided, however,* That electric cooperatives registered with the SEC shall no longer enjoy the incentives provided for in this Act.

“Despite the registration of the electric cooperatives under the CDA or the SEC, the NEA shall retain its supervisory and disciplinary power over them in the conduct of its operation as electric distribution utilities.”

SEC. 13. A new section, to be designated as Section 32-A, of Presidential Decree No. 269, as amended, is hereby inserted to read as follows:

“SEC. 32-A. *Incentives of Electric Cooperatives.*

– Consistent with the declared policy of this Act, electric cooperatives which comply with the financial and operational standards set by the NEA shall enjoy the following incentives:

“(a) To be entitled to congressional allocations, grants, subsidies and other financial assistance for rural electrification;

“(b) To receive all subsidies, grants and other assistance which shall form part of the donated capital and funds of the electric cooperatives, and as such, it shall not be sold, traded nor divided into share holdings at any time. These donated capital and funds shall be appraised and valued for the sole purpose of determining the equity participation of the members: *Provided,* That in case of dissolution or conversion of the electric cooperative, said donated capital and funds shall be subject to escheat; and

“(c) To avail of the preferential rights granted to cooperatives under Republic Act No. 7160, otherwise known as the ‘Local Government Code of 1991’, and other related laws.

“As a further incentive, the NEA may prioritize the grant of incentives in favor of electric cooperatives that are managed effectively and efficiently and comply consistently with its mandates and directives.”

CHAPTER IV

FINAL PROVISIONS

SEC. 14. A new section, to be designated as Section 64-A, of Presidential Decree No. 269, as amended, is hereby inserted to read as follows:

“SEC. 64-A. *Penalties.* – Any person who willfully violates any rule or regulation promulgated pursuant to the authority granted in this Act shall, upon conviction, be punished by a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Five hundred thousand pesos (P500,000.00) or by imprisonment of not less than six (6) months but not more than one (1) year, or both, at the discretion of the court: *Provided*, That if the violation is committed by a juridical person, the penalty herein prescribed shall be imposed upon the official and/or employee thereof responsible for the violation: *Provided, further*, That if the violation is committed by a government official or employee, including those in government-owned or -controlled corporations, such person shall, in addition to the penalty provided herein, be subjected to administrative disciplinary action.”

SEC. 15. A new section, to be designated as Section 64-B of Presidential Decree No. 269, as amended, is hereby inserted to read as follows:

“SEC. 64-B. *Congressional Oversight.* – Upon the effectivity of this Act, the Joint Congressional Power Commission created under Section 62 of

Republic Act No. 9136 shall exercise oversight powers over the implementation of this Act.”

SEC. 16. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the DOE shall, in coordination with the NEA and the CDA, and in consultation with the electric cooperatives, issue such rules and regulations as may be necessary to implement this Act.

SEC. 17. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SEC. 18. *Repealing Clause.* – Article 132(3) of Republic Act No. 9520 and Section 30 of Republic Act No. 9136 (EPIRA) on NEA’s authorized capital stock are hereby repealed. Any other provision of law, presidential decree, executive order, or rules and regulations inconsistent with the provisions of this Act or with the rules and regulations issued pursuant thereto are hereby repealed or modified accordingly.


SEC. 19. *Effectivity.* – This Act shall take effect on the fifteenth (15th) day following its publication in at least two (2) newspapers of general circulation.

Approved,



FELICIANO BELMONTE JR.

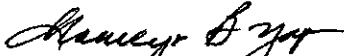
*Speaker of the House
of Representatives*



JUAN PONCE ENRILE

President of the Senate

This Act which is a consolidation of Senate Bill No. 3389 and House Bill No. 6214 was finally passed by the Senate and the House of Representatives on February 4, 2013.


MARILYN B. BARUA
Secretary General
House of Representatives


EDWIN B. BELLEN
Acting Senate Secretary

Approved: MAY 07 2013




BENIGNO S. AQUINO III
President of the Philippines

O

