

Presidential Decree No. 269, s. 1973

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MALACAÑANG MANILA

Presidential Decree No. 269

CREATING THE "NATIONAL ELECTRIFICATION ADMINISTRATION" AS A CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE SAID OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATIONS, THE REPEAL OF REPUBLIC ACT NO. 6038, AND FOR OTHER PURPOSES

WHEREAS, it is the desire of the government to effect changes and reforms in the social, economic, and political structure of our society;

WHEREAS, detailed studies have clearly emphasized the very close correlation between consumption of energy and gross national product. Electric power, wherever introduced, stimulates the growth of industry and the economy in general;

WHEREAS, electrification of the entire country, one of the primary concerns of the government in order to bring about the desired changes and reforms, can be hastened by rationalizing the distribution of electricity;

WHEREAS, rationalization, which implies the adoption of all measures necessary to obtain the maximum benefit at the minimum expenses, can be achieved by:

1. Establishing island grids and integrating power generating systems.
2. Consolidating electric distribution franchise systems. The existence of small franchise system impede the progress of total electrification, as such small and isolated systems are antithetical to the economies of scale.
3. Implementing the area coverage concept, which will allow the construction of lines to thinly settled areas which are most costly to electrify, provided that the losses from these lines can be reasonably absorbed by the more profitable lines.

WHEREAS, under Republic Act No. 6038, dated August 4, 1969, Presidential Decree No. 40 and Letter of Instruction No. 38, dated November 7, 1972, the National Electrification Administration was given certain powers, duties, and functions to attain total electrification on an area coverage basis; to set up cooperatives for the distribution of power; and to determine privately-owned public utilities which should be permitted to remain in operation;

WHEREAS, to attain total electrification in the most effective and efficient manner, there is a need to further strengthen and make more flexible the organizational structure of the National Electrification Administration by converting it into a corporation, wholly-owned and controlled by the government, possessed with borrowing authority and corporate powers;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby repeal Republic Act No. 6038 and do hereby decree, order and make as part of the law of the land the Charter of the National Electrification Administration, which reads as follows:

CHAPTER I Policy and Definitions

Section 1. Title. This Decree shall be referred to as the "National Electrification Administration Decree."

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

Area coverage electrification cannot be achieved unless service to the more thinly settled areas and therefore more costly to electrify is combined with service to the most densely settled areas and therefore less costly to electrify. Every

public service entity should hereafter cooperate in a national program of electrification on an area coverage basis, or else surrender its franchise in favor of those public service entities which will. It is hereby found that the total electrification of the Nation requires that the laws and administrative practices relating to franchised electric service areas be revised and made more effective, as herein provided. It is therefore hereby declared to be the policy of the State that franchises for electric service areas shall hereafter be so issued, conditioned, altered or repealed, and shall be subject to such continuing regulatory surveillance, that the same shall conduce to the most expeditious electrification of the entire Nation on an area coverage basis.

Section 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:

- (a) "NEA" shall mean the National Electrification Administration, "Board of Administrators" shall mean the Board of Administrators, and "Administrator" shall mean the

Administrator, all as provided for in this Decree.

(b) "Cooperative" shall mean a corporation organized under Republic Act No. 6038 or this Decree or cooperative supplying or empowered to supply service which has heretofore been organized under the Philippine Non- Agricultural Cooperative Act, whether covered under this Decree or not.

(c) "Public service entities" shall mean (1) a cooperative, (2) the NPC, and (3) local governments and privately-owned public service entities in operation which furnish and are empowered to furnish retail electric service.

(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 finishing 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 (1) the geographic area franchised to a public service entity or (2) any lesser geographic area for the furnishing of retail service to which a public service entity pursuant to this Decree borrows, or may apply to borrow, funds from the NEA, or may otherwise secure loans with the approval of the NEA, to finance 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) "NEDA" shall mean National Economic and Development Authority or any successor or instrumentality that may hereafter be established to perform the same or substantially similar function; "NPC" shall mean National Power Corporation; and "NEDA-FS" shall mean National Economic and Development Authority-Foreign Source.

(l) "Board of Power and Waterworks" shall mean Board of Power and Waterworks or any successor board, agency or instrumentality that may hereafter be established to perform the same or substantially similar functions.

(m) "Franchise" shall mean the privilege extended to a person to operate an electric system for service to the public at retail within a described geographic area, whether such privilege had been granted by the Congress, by a municipal, city or provincial government or, as herein provided, by the NEA.

(n) "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 investment 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.

(o) "Board" shall mean the board of directors of a cooperative.

(p) "Household" shall mean a non-seasonal dwelling capable of receiving service safely, including apartments and other dwelling combinations.

(q) "Congress" shall mean the President during his exercise of Martial Law, or the National Assembly under the new Constitution of 1973, whichever is the case at any given time.

(r) "President" shall mean the President of the Philippines during the existence of Martial Law, or the Prime Minister when the National Assembly comes into existence.

CHAPTER II The National Electrification Administration

Section 4. NEA Authorities, Powers and Directives. The NEA 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 Decree, specifically authorized, empowered and directed:

(a) To have a continuous succession under its corporate name until otherwise provided by law;

(b) To prescribe and thereafter to amend and repeal its by-laws not inconsistent with this Decree;

(c) To adopt and use a seal and alter it at its pleasure;

(d) To sue and to be sued in any court: *Provided, That* NEA shall, unless it consents otherwise, be immune to suits for acts *ex delicto*;

(e) To make contract of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business;

(f) To make loans to public service entities, with preference to cooperatives, for the construction or acquisition, operation and maintenance of generation, 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 supplying for a loan, if neither a cooperative nor a local government, must be in operation at the time of application;

(g) To promote, encourage and assist public service entities and government agencies and corporations having related functions and purposes, with preference to cooperatives, in planning, developing, coordinating, establishing, operating, maintaining, repairing and renovating facilities and systems to supply area coverage service, and for such purpose to furnish, to the extent possible and without change therefor, technical and professional assistance and guidance, information, data and the results of any investigation, study, or receipt conducted or made by the NEA;

(h) To approve or disapprove any loan from other lenders to public service entities which at the time are borrowers from NEA under sub- paragraphs (f) or (i) of this section, and thereafter, pursuant to Section 10 (b) to disapprove advances of loans from other lenders;

(i) To make loans for the purpose of financing the wiring of premises of persons served or to be served as a result of loans made under sub- paragraph (f) of this Section, and for the acquisition and installation by such persons of electrically-powered appliances, equipment, fixtures and machinery of all kinds for residential, recreational, commercial, agricultural and industrial uses, such loans to be made directly (1) to public service entities which have received loans under sub-paragraph (f) of this section, which entities shall in turn relend such funds to persons served or to be served by them, or (2) to any persons served or to be served by public service entities which have received loans under sub-paragraph (f) of this section: *Provided*, That at no time shall the total loans made under this sub-paragraph (i) to a public service entity and/or to persons served or to be served by such entity exceed twenty-five (25%) per centum of the outstanding loans to such entity made under sub-paragraph (f) of this section;

(j) To so cooperate, coordinate and 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 NPC, as will most effectively conduce to the achievement of the purposes of this Decree;

(k) To borrow funds from any source, private or government, foreign or domestic, and, not inconsistently with section 8, to issue bonds or other evidences of indebtedness therefor and to secure the lenders thereof by pledging, sharing or subordinating one or more of the NEA's own loan securities;

(l) To receive from Cooperatives all articles of incorporation, amendments, 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 Decree, to certify the same, to file them in the records of the NEA, and to maintain a registry of such filings the provisions of Act No. 1459, as amended, to the contrary notwithstanding;

(m) To acquire, by purchase or otherwise (including the right of eminent domain, which is hereby granted to the NEA, to be exercised in the manner provided by law for the institution and completion of expropriation proceedings by the National and local governments,) real and physical properties, together with all appurtenant rights, easements, licenses and privileges, whether or not the same be already devoted to the public use of generating, transmitting or distributing electric power and energy, upon NEA's determination that such acquisition is necessary to accomplish the purposes of this Decree and, if such properties be already devoted to the public use described in the foregoing, that such use will be better served and accomplished by such acquisition; *Provided*, That the power herein granted shall be exercised by the NEA solely as agent for and on behalf of one or more public service entities which shall timely receive, own and utilize or replace such properties for the purpose of furnishing adequate and dependable service on an area coverage basis, which entity or entities shall then be, or in connection with the acquisition shall become, borrowers from the NEA under sub-paragraph (f) of this section; and *Provided further*, That the costs of such acquisition, including the cost of any eminent domain proceedings, shall be borne, either directly or by reimbursement to the NEA, whichever the NEA shall elect, by the public service entity or entities on whose behalf the acquisition is undertaken; and otherwise to acquire, improve, hold, transfer, sell, lease, rent, mortgage, encumber and otherwise dispose of property incident to, or necessary, convenient or proper to carry out, the purposes for which NEA was created;

(n) At least annually, not later than June 30th, to report to the President and when the same comes into existence, the Prime Minister and the

National Assembly, 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 unelectrified households 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 the achievement of the purposes of this Decree; 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 Decree; and

(o) To 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 to be necessary, useful, incidental or auxiliary to accomplish such purposes; and generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Decree.

Section 5. National Electrification Administration; Board of Administrators; Administrator.

(a) For the purpose of administering the provisions of this Decree, there is hereby established a public corporation to be known as the National Electrification Administration. All of the powers of the corporation shall be vested in and exercised by a Board of Administrators, which shall be composed of a Chairman and four (4) 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 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 the two other members, respectively, and that the term of the ex-officio member shall be co-terminus with his term as the Administrator. All vacancies, except through expiration of the terms, shall be filled for the unexpired term only. The Chairman and every member of the Board of Administrators shall be entitled to a per diem of not more than three hundred pesos for each meeting actually attended by them; *Provided*, That the total of such per diems shall not exceed one thousand five hundred pesos per month per member.

The Board of Administrator shall meet regularly at least twice a month and as often as the exigencies of the agency'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, except when a greater vote is required as sometimes hereinafter provided. In the absence of the Chairman at a Board meeting duly called, the Administrator as ex-officio member shall preside.

The Board shall, without limiting the generality of the foregoing, have the following specific powers and duties.

1. To implement the provisions and purposes of this Decree;

2. To formulate and adopt policies and plans, and to promulgate rules and regulations, for the management, operation and conduct of the business of the NEA;

3. To adopt and, as may be necessary from time to time, to amend annual budgets for the NEA's borrowing and lending programs and for the agency's administration; *Provided*, That copies of such budgets shall be submitted to the President or the appropriate committee of and as determined by, the National Assembly, when it comes into existence, within fifteen (15) days from the transmission thereof to the NEDA; and *Provided, further*, That the administrative budget and any amendments thereto shall be subject to the approval of NEDA;

4. To fix the compensation of the Administrator and of the Deputy Administrators, subject to the approval of the President of the Philippines; and

5. To establish policies and guidelines for employment on the basis of merit, technical competence and moral character, and, upon the recommendation of the Administrator to organize or reorganize NEA's staffing structure, to fix the salaries of personnel and to define their powers and duties.

(b) The management of NEA shall be vested in the Administrator, who shall be a person of known integrity, competence and experience in technical and executive fields related to the purposes of this Decree. He shall be appointed by the President of the Philippines and shall not be removed except for cause.

The Administrator shall have the following powers and duties:

1. To execute and administer the policies, plans and program, and the rules and regulations, approved or promulgated by the Board of Administrators;
2. To submit for the consideration of the Board of Administrators such policies, plans and programs as he deems necessary to carry out the provisions and purposes of this Decree;
3. To direct and supervise the operation and internal administration of the NEA and, for this purpose, to delegate some or any of his powers and duties to subordinate officials of the NEA;
4. Subject to the guidelines and policies established by the Board of Administrators, to appoint and fix the number and compensation of subordinate officials and employees of the NEA: *Provided, however,* The provisions of the Civil Service Law and Position Classification Law shall not apply to the appointment and compensation of any such subordinate official or employee;
5. For cause, to remove, suspend, or otherwise discipline any subordinate official or employee;
6. To prepare an annual report on the activities of the NEA at the close of each fiscal year and to submit a copy thereof to the President of the Philippines and when it comes into existence, the Prime Minister and the appropriate committee of, and as determined by, the National Assembly; and
7. To exercise such other powers and duties as may be vested in him by the Board of Administrators.

In case of absence or disability of the Administrator, he shall designate any of the Deputy Administrators who shall act in his place.

(c) The Auditor General shall be ex-officio Auditor of the NEA. The provisions of Section 584 of the Revised Administrative Code, as amended by Republic Acts Numbered 2266 and 2716, shall apply to the Office of the Representative of the Auditor General in the NEA.

Section 6. Capital Stock. The authorized capital stock of NEA is one billion pesos (P1B) divided into ten (10) million shares having a par value of one hundred (P100.00) pesos each, which shares are not to be transferred, negotiated, pledged, mortgaged, or otherwise given as security for the payment of any obligation. The sum of fifty million pesos (P50M) of the capital stock has been subscribed and paid wholly by the government of the Philippines in

accordance with the provisions of Republic Act Numbered Twenty-seven hundred seventeen, and Republic Act Numbered Sixty hundred thirty-eight.

The remaining nine hundred fifty million pesos (P950M) shall be wholly subscribed by the government of the Philippines and shall be paid as follows:

- (a) The sum of one hundred ninety five million pesos (P195M) worth of goods and services from Japanese Reparations for the eighteenth, nineteenth and twentieth year schedule, which is hereby allocated to NEA;
- (b) The sum of ten million pesos (P10M) for the fiscal year 1973 and the same amount each year for the next two fiscal years making a total sum of thirty million pesos (P30M) representing proceeds of the sale of reparation goods, which are hereby allocated to NEA;
- (c) The sum of fifty three million five hundred thousand pesos (P53.5M) for the fiscal year 1973 and the same amount each year for the next nine (9) fiscal years from the general revenue, which are hereby appropriated;
- (d) The sum of one hundred thirty million pesos (P130M) representing fund or physical assets which NEDA-FS may make available to the NEA for loan purposes;
- (e) The sum of sixty million pesos (P60M) representing proceeds corresponding to the share of the National Government in all franchise taxes paid by electric service entities; and
- (f) Such sums as may be appropriated and/or allocated by the President or the National Assembly, when it comes into existence, from time to time as the financial needs of the NEA shall require until the authorized capital stock is fully paid-up.

Section 7. Loan Standards. In making a loan authorized in Section 4, the Board of Administrators is hereby authorized, empowered and directed:

- a) Before making such loan, to determine and certify that (1) the project or projects being financed thereby are financially feasible for the purpose of, and will result in, area coverage in the area or areas to be affected thereby; (2) funds are or will be available for the total advance of such loans to the borrower on the schedule contemplated by the loan agreement; and (3) in the NEA's judgment and security for such loan is reasonably adequate and the principal of and interest upon such loan will be repaid on schedule and within the time agreed;
- b) To require that such loan be self-liquidating within a term to be fixed by the NEA;
- c) To impose upon the loan principal an interest charge to be fixed by the NEA;
- d) To fix the schedule for repayment of the principal of and the interest upon such loan in installments recurring not more than every quarter, which installments may be in unequal amounts and larger in the later years of the loan term than in the earlier years;
- e) To require in the loan agreement that the borrower's rates, charges, rules and regulations, policies and all other terms and conditions affecting its extension and furnishing of service shall be such as to assure achievement of the loan purposes, and that the same shall be filed with and for such purpose approved by the Board of Administrators before being put into effect or charged by the borrower; and
- f) Subject to the foregoing, to establish and require compliance with such procedures, rules and regulations as the Board of Administrators may determine to be necessary or appropriate to assure that the purposes of such loan will be timely achieved and that the loan agreement and the provisions of this Decree will be complied with.

Section 8. Contracting Indebtedness: Conditions, Privileges, Exemptions, Sinking Fund, Guarantees. Whenever the Board of Administrators determines that to accomplish the purposes of Chapter II of this Decree it is necessary to contract indebtedness, it shall by a resolution, adopted by the affirmative votes, of at least three members, to declare and authorize the NEA's execution or issuance of, and establish the terms and conditions to be contained in, such bonds, loan agreements or other evidences of indebtedness necessary therefor. Such resolution shall become valid and effective upon approval by the President of the Philippines upon recommendation of the Secretary of Finance.

(a) With respect to domestic indebtedness to be incurred by the NEA, the terms and conditions to be contained in such bonds or other evidences of indebtedness, and other conditions, privileges, exemptions and guarantees attaching thereto, shall include the following:

(1) Such bonds or other evidences of indebtedness (a) shall be in registered form and transferable at the Central Bank of the Philippines; (b) shall not be sold at less than par; (c) shall be payable ten years or more from date of issue, as may be determined by the Secretary of Finance before their issuance, but shall be redeemable, upon the election of the Board of Administrators, after five years from such date of issue; and (d) shall bear interest at an annual rate to be determined before their issuance by the Secretary of Finance. The interest may be payable quarterly, semi-annually or annually, as determined by the

Secretary of Finance in consultation with the Monetary Board of the Central Bank of the Philippines before date of issuance, and both the principal and interest shall be payable in legal tender of the Philippines.

(2) The bonds or other evidences of indebtedness shall be exempt from the payment of all taxes by the Republic of the Philippines, or by any authority, branch, division, political subdivision thereof, which facts shall be stated upon their face; and they shall be receivable as security in any transaction with the National Government or any of its branches, subdivisions, instrumentalities and its owned or controlled corporations in which a security is required.

(3) The sinking fund shall be established by the National Electrification Administration in such manner that the total annual contributions thereto, accrued at such rate of interest as may be determined by the Secretary of Finance in consultation with the Monetary Board, shall be sufficient to redeem at maturity the bonds issued under this subsection. The sinking fund shall be under the custody of the Central Bank of the Philippines, which shall invest the same, subject to the approval of the Board of Administrators and the Secretary of Finance in consultation with the Monetary Board; *Provided*, That the proceeds thereof shall accrue to the NEA.

(4) The Republic of the Philippines hereby guarantees the payment by the NEA of both the principal and the interest of the bonds or other evidences of indebtedness, and shall pay such principal and interest in case the NEA fails to do so; and there are hereby appropriated out of the general funds in the National Treasury not otherwise appropriated the sums necessary to make the payments so guaranteed; *Provided*, That the sums so paid by the Republic of the Philippines shall be refunded by the NEA; and *Provided, further*, That the NEA, to assure such refunding, shall establish such reserves or sinking funds and comply with such other restrictions and conditions as the Secretary of Finance may prescribe and establish for that purpose.

(b) With respect to foreign indebtedness to be incurred by the NEA, such may be contracted, in the form of loans, credits, convertible foreign currencies, or other forms of indebtedness, from foreign governments or any international financial institution or fund source, including foreign private lenders. The total outstanding amount of such indebtedness, exclusive of interest, shall not exceed five hundred million United States dollars (U.S. \$500M) or the equivalent thereof in other currencies. The

President of the Philippines, by himself or through his duly authorized representative, is hereby authorized to negotiate and to so contract with foreign governments or any international financial institution or fund source in the name and on behalf of the NEA; and is further authorized to guarantee, absolutely and unconditionally, as primary obligor and not merely as a surety, in the name and on behalf of the Republic of the Philippines, the repayment of any indebtedness thereby contracted and the payment thereon of any due interest charge, up to the limited amount authorized by the foregoing, which shall be over and above the amounts which the President is authorized to guarantee under R.A. 6142, and also to guarantee the performance of all or any of the obligations undertaken by the NEA in the territory of the Republic of the Philippines pursuant to loan agreements entered into pursuant to this sub-paragraph (b). Any indebtedness contracted under this sub-paragraph (b) and the payment of the principal thereof and of any interest or other charges thereon, as well as the importation of machinery, equipment, materials, supplies and service by the NEA, paid from the proceeds of any such contracted indebtedness, shall also be exempt from all direct and indirect taxes, fees, imposts, other charges and restrictions, including import restrictions, by the Republic of the Philippines, or by any authority, branch, division or political subdivision thereof.

Section 9. Authority to Extend Loans and Release or Subordinate Securities. Whenever in its judgments such is necessary or desirable to achieve the purposes of this Decree, and particularly if such is necessary to make or keep a project operationally viable, the Board of Administrators is hereby authorized and empowered (a) by agreement with the borrower, to extend the time of payment of principal or interest, or both, beyond the loan agreement term of any loan made by the NEA under this Decree, or to defer, for not in excess of seven years, the time when the repayment schedule for principal or interest, or both, shall begin, or to reschedule payments of principal or interest, or both, or when more of the foregoing is sufficient, to compromise any amount owing by a borrower to the NEA subject to provision of existing laws; and (b) upon the NEA's determination that such is necessary or desirable for the purpose of enabling a borrower to accomplish the purposes for which it has already received a NEA loan and that such 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 below the level of such security and ability were additional borrowings from another lender not undertaken, to release any after-acquired property clause contained in any lien the NEA holds on a borrower's properties to, or to share any such lien on a co-equal basis in proportion to their respective loans with, or to subordinate any such lien in favor of, any other lender of funds to a public service entity or to the NEA for relending to public service entities for the purposes for which loans are authorized under this Decree.

Section 10. Enforcement Powers. If any public service entity which has borrowed funds from the NEA, or from any other lender with the NEA's lawfully required prior approval, shall default in its principal or interest payments, or shall fail, after notice from the NEA, to comply with any other term or condition of the loan agreement or of any rule or regulation promulgated by the NEA in administering the provisions of this Decree, the Board of Administrators is hereby authorized and empowered in its discretion to do any or any combination of the following:

(a) Refuse to make, or give my lawfully required approval to, any new loan to the borrower;

(b) Withhold without limitation the NEA's advancement, or withhold its approval for any other lender with respect to which the NEA has such approving power to make advancement, of funds pursuant to any loan already made to the borrower;

(c) Withhold any technical or professional assistance otherwise being furnished or that might be furnished to the borrower;

(d) Foreclose any mortgage or deed of trust or other security held by the NEA on the properties of such borrower, in connection with which the NEA, may, subject to any superior or co-equal rights in such lien held by any other lender; (1) bid for and purchase or otherwise acquire such properties; (2) pay the purchase price thereof and any costs and expenses incurred in connection therewith out of the revolving fund; (3) accept title to such properties in the name of the Republic of the Philippines; and (4) even prior to the institution of foreclosure proceedings, operate or lease such properties for such period, and in such manner as may be deemed necessary or advisable to protect the investment therein, including the improvement, maintenance and rehabilitation of systems to be foreclosed, but the NEA shall, within five years after acquiring such properties in foreclosure proceedings, sell the same for such consideration as it determines to be reasonable and upon such terms and conditions as it determines most conducive to the achievement of the purposes of this Decree; or

(e) Take any other remedial measure for which the loan agreements may provide.

In addition to the foregoing, the Board of Administrators may, at its own instance and in the name of the NEA, petition any court having jurisdiction for such purpose or any administrative agency possessing regulatory powers for such purpose (including the Board of Power and Waterworks) to issue such order and afford such lawful relief as may be necessary.

No borrower shall, without the approval of the Board of Administrators and of any other lender holding or sharing a lien on such borrower's properties, sell or dispose of the property, rights, franchises, permits or any other assets acquired and/or mortgaged pursuant to the provisions of this Decree until all outstanding indebtedness to the NEA and any other such lender, including all interest owing thereon, shall have been repaid; *Provided*, That the NEA may by appropriate rule or regulation grant general permission to borrowers to dispose of incidental properties (excluding real property), rights, franchises, permits or other assets no longer deemed necessary or useful in conducting the borrower's operations.

No cooperative shall borrow money from any source without the Board of Administrator's prior approval; *Provided*, That the Board of Administrators may, by appropriate rule or regulation, grant general permission to cooperatives to secure short-term loans not requiring the encumbering of their real properties or of a substantial portion of their other properties or assets.

Section 11. Execution of Public Works Acts. The NEA shall execute all electrification projects that may be authorized in any Public Works Acts; and for this purpose it may call for assistance and cooperation consistently with Section 4 (j) .

Section 12. Conflict of Interest.

(a) No member, officer, attorney, agent or employee of the NEA shall in any manner, directly or indirectly, participate in the determination of any question affecting any public service entity or other entity in which he is directly or indirectly interested or any person to whom he is related within the third degree of affinity or consanguinity. Any person violating the provisions of this subsection shall be removed from office and shall upon conviction be punished by a fine not to exceed ten thousand (P10,000.00) pesos or imprisonment not to exceed five years, or both.

(b) No officer or employee of the NEA or any government official who may exercise executive or supervisory, authority over the NEA, either directly or indirectly, for himself or as the representative or agent of others, shall become a guarantor, endorser, surety for loans from the NEA to others, or in any manner be an obligor for money borrowed from the NEA. Any such officer or employee who violates the provisions of this subsection shall be punished by a fine of not less than one thousand pesos (P1,000.00) nor more than five thousand (P5,000.00) pesos, or imprisonment for not less than one year nor more than five years, or both.

(c) No loan shall be granted by the NEA to any person related to any member of the Board of Administrators or to the Administrator within the third degree of consanguinity or affinity, or to any corporation, partnership, or company wherein any member of the Board of Administrators or the

Administrator is a shareholder; *Provided*, That the foregoing prohibition shall not apply to a cooperative of which any member of the Board of Administrators or the Administrator or any such relative is a member. Violation by any member of the Board of Administrators or the Administrator of the provisions of this subsection is sufficient cause for this removal by the President of the Philippines; and the violator shall furthermore be punished as provided in subsection (b) .

(d) No fee, commission, gift, or charge of any kind shall be exacted, demanded, or paid for obtaining loans from the NEA. Any officer, employee or agent of the NEA or the government exacting, demanding or receiving any fee, commission, gift or charge of any kind for service in obtaining a loan shall be punished by a fine of not less than one thousand nor more than three thousand pesos, or imprisonment for not less than one year nor more than three years, or both.

(e) Any person who, for the purpose of obtaining, renewing, or increasing a loan or the extension of the period thereof, on his own or another's behalf, shall give any false information or cause through his intrigue or machination the existence and production of any false information with regard to the identity, situation, productivity or value of security, or with regard to a point which might affect the granting or denial of the loan, whether the latter has been consummated or not, and any officer or employee of the NEA who through connivance shall allow by action or omission such false information to pass unnoticed, thereby causing damage to the NEA or exposing the latter to the danger of suffering such damage, shall be punished by a fine of not less than the amount of the loan obtained or applied for nor more than three times such amount, or imprisonment for not less than three months nor more than three years, or both.

(f) Any officer or employee of the NEA who violates, or causes or permits another person to violate, and any other person who violates or aids or abets the violation of, any provision of this Decree not specifically punishable in the preceding subsections shall be punished by a fine not exceeding two thousand (P2,000.00) pesos, or imprisonment not exceeding one year, or both.

Section 13. Supervision over NEA; Power Development Council. The NEA shall be under the supervision of the Office of the President of the Philippines. All orders, rules and regulations promulgated, and all appointments made by the NEA as well as transactions subject to the authority and jurisdiction of the NEA involving more than five hundred thousand (P500,000.00) pesos shall be subject to the approval of the Office of the President of the Philippines.

In order to achieve coordination and cooperation among different agencies and sectors having to do with electrification and power development, there is hereby created a Power Development Council whose Chairman shall be a person or official designated by the President of the Philippines, and its members shall be the manager of the NPC, the NEA Administrator, the Director General of the NEDA, the Chairman of the Board of Power and Waterworks, a representative of electric cooperatives to be chosen by a national association of electric cooperatives, and a representative of the Private sector.

The Council shall have a Secretariat to be headed by an Executive Secretary and staffed by such number of personnel as may be determined by the Council. In order to augment the expertise necessary in the performance of its functions, the council may secure the detail of personnel, either on a part-time or full-time basis, as well as other forms of assistance from other government offices and agencies, including government- owned or controlled corporations. The qualifications and compensation of the personnel of the Secretariat shall be determined by the Council, but their appointments shall be made by the Chairman.

The salaries, expenses, operating expenses and such other necessary financial outlays for PDC shall be provided for from a special annual assessment to be determined by the Chairman of PDC and paid by the NEA and NPC.

The Council shall adopt an integrated plan of electrification and power development, coordinate the activities and operations of all sectors involved in electrification, and recommend such policies and measures to the proper authorities and parties concerned as it may deem necessary to achieve the total electrification objective declared in this Decree.

Section 14. Exemption From All Taxes, Duties, Fees, Imposts and Others Charges by Government and Governmental Instrumentalities. The NEA shall devote all its returns from its capital investments as well as excess revenues from its operation to attain its objectives. To enable the NEA to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in this Decree, the NEA is hereby declared exempt:

- (a) From the payment of all taxes, duties, fees, imposts, charges, costs and restrictions to the Republic of the Philippines, its provinces, cities, municipalities, and other government agencies and instrumentalities, including the taxes, duties, fees, imposts and other charges provided for under the Tariff and Customs Code of the Philippines, R.A. 1973, as amended by Presidential decree No. 34 dated October 27, 1972, and Presidential decree No. 69 dated November 24, 1972, and filing and service fees and other charges or costs in any court or administrative proceedings in which it may be a party;
- (b) From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities;
- (c) From all import duties, compensating taxes and advance sales tax, wharfage fees on import of foreign goods required for its operations and projects; and
- (d) From all taxes, duties, fees, imposts, and all other charges imposed directly or indirectly by the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities, on all petroleum products used by the NEA in the generation, transmission, utilization and sale of electric power.

CHAPTER III Electric Cooperatives

Section 15. Organization and Purpose. Cooperative non-stock, non-profit membership corporations may be organized, and electric cooperative corporations heretofore formed or registered under the Philippine non- Agricultural Cooperative Act may as hereinafter provided be converted, under this Decree for the purpose of supplying, and of promoting and encouraging the fullest use of, service on an area coverage basis at the lowest cost consistent with sound economy and the prudent management of the business of such corporations.

Section 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:

- (a) To sue and be sued in its corporate name; (b) To have existence for a period of fifty years; (c) To adopt a corporate seal and alter the same;
- (d) To generate, manufacture, purchase, acquire, accumulate and transmit electric power and energy, and to distribute, sell, supply and dispose of electric energy to persons who are its members and to other persons not in excess of ten per centum of the number of its members; *Provided, however,* That a cooperative may furnish electric cold storage or processing plant service to non-members without limitation; and *Provided,*
further, That a cooperative which acquires existing electric facilities may continue service from such facilities without requiring such persons to become members, but such persons may become members upon such terms as may be prescribed in the cooperative's by-laws;
- (e) To assist persons to whom service is or will be supplied by the cooperative in wiring their premises and in acquiring and installing electrically powered-appliances, equipment, fixtures and machinery for agricultural, commercial and industrial uses by the financing thereof or otherwise, and in connection therewith to wire, or cause to be wired, such premises, and to purchase, acquire, lease as lessor or lessee, sell, distribute, install and repair such electrically-powered appliances, equipment, fixtures and machinery;
- (f) To assist persons to whom service is or will be supplied by the cooperative in constructing, equipping, maintaining and operating electric cold storage or processing plants, by the financing thereof or otherwise;
- (g) To construct, purchase, lease as lessee, or otherwise acquire, and to equip, maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, lands, buildings, structures, dams, plants, and equipment, and any other real or personal property, tangible or intangible, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized;
- (h) To purchase, lease as lessee, or otherwise acquire, and to use, and exercise and to sell, assign, convey, mortgage, pledge or otherwise dispose of or encumber franchises, rights, privileges, licenses and easements;
- (i) To borrow money and otherwise contract indebtedness, and to issue notes, bonds, and other evidence of indebtedness, and to secure payment thereof by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its then owned or after-acquired real or personal property, assets, franchises, or revenues; *Provided,* That any borrowing from, or any encumbering of its properties as security in favor of, any lending sources other than the NEA shall require the prior approval of the NEA Administrator and his certification that such is in furtherance of the purposes and is consistent with the provisions of this Decree, and that such borrowing and/or encumbering will not diminish the security of, or of the ability of the cooperative to repay, any then-outstanding indebtedness of the cooperative to the NEA or any other lending source below the level of such security and ability were such additional borrowing not being undertaken;
- (j) To construct, maintain and operate electric transmission 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; *Provided,* That such shall not prevent or unduly impair the primary public uses to which such lands and thoroughfares are otherwise devoted;
- (k) To exercise the power of eminent domain in the manner provided by law for the exercise of such power by other corporations constructing or operating electric generating plants and electric transmission and distribution lines or systems;
- (l) To become a member of other cooperatives or Corporations or to own stock therein, provided such cooperatives or corporations are engaged in a business or activities germane to or having a reasonable relation to the business or activities of the cooperative, its members, its directors, or its employees;
- (m) To conduct its business and exercise its powers within or without the province or provinces in which it supplies service;
- (n) To adopt, amend and repeal by-laws;
- (o) To fix, maintain, implement and collect rates, fees, rents, tolls, and other charges and terms and conditions for service; *Provided,* That by appropriate rules and regulations the NEA shall require that such shall be in furtherance of the purposes and in conformity with the provisions of this Decree; and
- (p) To do and perform any other acts and things, and to have and exercise any other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.

Section 17. Name. The name of a cooperative shall include the words "Electric" and "Cooperative", and the abbreviation "Inc.". The name of a cooperative organized under this Decree shall be distinct from the name of any other cooperative already organized or converted under this Decree. The foregoing requirement shall not apply to any cooperative which becomes subject to this Decree by complying with the provisions of Section 31.

Section 18. Incorporators. Five or more persons, including cooperatives, may organize a cooperative in the manner hereinafter provided.

Section 19. Articles of Incorporation. The articles of incorporation of a cooperative shall recite that they are executed pursuant to this Decree and shall state: (a) the name of the cooperative; (b) the address of its principal office; (c)

the names and addresses of the incorporators; and (d) the names and addresses of its original directors, who shall constitute the board until the first election of the board by the members; and may contain any other provisions not inconsistent with this Decree that are deemed necessary or advisable for the conduct of its business. Such articles shall be signed by each incorporator and acknowledged by at least two of the incorporators (or on their behalf, if they are cooperatives). It shall not be necessary to recite in the articles of incorporation the purpose for which the cooperative is organized or any of its corporate powers.

Section 20. By-Laws. Unless reserved to the members in the articles of incorporation, the power to adopt and thereafter to amend or repeal by-laws shall vest in and be exercised by the board, the affirmative votes of a clear majority of all directors in office, after due notice to all directors, being requisite for such purpose. The by-laws shall set forth the basic rights and duties of members and directors and may contain any other provision for the regulation and management of the affairs of the cooperative not inconsistent with its articles of incorporation or this Decree.

Section 21. Members. Each incorporator of a cooperative shall be a member thereof, but no other person may become a member thereof unless such other person agrees to use services furnished by the cooperative when made available by it. Membership in a cooperative shall not be transferable, except as provided in the by-laws. The by-laws may prescribe additional qualifications and limitations with respect to membership.

The provision of any law or regulation to the contrary notwithstanding, an officer or employee of the government shall be eligible for membership in any cooperative if he meets the qualifications therefor and he shall not be precluded from being elected to or holding any position therein, or from receiving such compensation or fee in relation thereto as may be authorized by the by-laws; *Provided*, That elective officers of the government, except barrio captains and councilors, shall be ineligible to become officers and/or directors of any cooperative. For this purpose, individual permission need not be obtained from the proper head of office; *Provided, however*, That this authority shall not be construed as a permit to the government officer or employee concerned to devote official time to the affairs of the cooperative.

Section 22. Meetings of Members. (a) An annual meeting of the members of a cooperative shall be held at

such time and place as shall be provided in the by-laws.

(b) Special meetings of the members may be called by the President, by the board, by any three directors or, unless a smaller number or

percentage be prescribed in the by-laws, by not less than 100 members or five per centum of all members, whichever shall be the lesser.

(c) Except as otherwise provided in this Decree and unless otherwise provided for in the by-laws, written or printed notice stating the time and place of each meeting of the members and, in the case of special meetings, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten days nor more than twenty-five days before the date of the meetings. If mailed, such notice shall be deemed to be given when deposited in the Philippine mail with postage prepaid, addressed to the member at his address as it appears on the records of the cooperative.

(d) Unless the by-laws prescribe the presence of a greater or lesser percentage or number of the members for such purpose, a quorum for the transaction of business at all meetings of the members of a cooperative having not more than 1,000 members shall be five per centum of all members, present in person, and of a cooperative having more than 1,000 members shall be five per centum of all members or 100, whichever is lesser, present in person. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

(e) Each member shall be entitled to one vote of each matter submitted to a vote at a meeting of the members. Voting shall be non-cumulative and in person, but, if the by-laws so provide, may also be by mail or by proxy.

Section 23. Waiver of Notice. Any person entitled to notice of a meeting may waive notice in writing either before or after such meeting; however, his attendance shall constitute a waiver of notice of such meeting, unless such person participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

Section 24. Board of Directors.

(a) The business of a cooperative shall be managed by a board of not less than five directors, each of whom shall be a member of the cooperative or of another which is a member thereof. The by-laws shall prescribe the number of directors, their qualifications other than those prescribed in this Decree, the manner of holding meetings of the board and of electing successors to directors who shall resign, die or otherwise be incapable of acting. The by-laws may also provide for the removal of directors from office and for the election of their successors. Directors shall not receive any salaries for their services as such and, except in emergencies, shall not receive any salaries for their services to the cooperative in any other capacity without the approval of the members.

The by-laws may, however, prescribe a fixed fee for attendance at each meeting of the board and may provide for reimbursement of actual expenses of such attendance and of any other actual expenses incurred in the due performance of a director's duties.

(b) The directors of a cooperative named in any articles of incorporation, consolidation, merger or conversion shall hold office until the next annual meeting of the members and until their successors are elected and qualify. At each annual meeting of, in case of failure to hold the annual meeting as specified in the by-laws, at a special meeting called for that purpose, the members shall elect directors to hold office until the next annual meeting of the members, except as otherwise provided in this Decree. Each director shall hold office for the term for which he is elected and until his successor is elected and qualifies.

(c) Instead of electing all the directors annually, the by-laws may provide that each year half of them or one-third of them, or a number as near thereto as possible, shall be elected on a staggered term basis to serve two-year terms or three-year terms, as the case may be.

(d) A majority of the board of directors in office shall constitute a quorum.

(e) The board shall exercise all of the powers of a cooperative not conferred upon or reserved to the members by this Decree or by its articles of incorporation or by-laws.

Section 25. Districts. The by-laws may provide for the division of the territory served or to be served by a cooperative into two or more districts for any purpose, including, without limitation, the nomination and election of directors. The by-laws shall prescribe the boundaries of the districts, or the manner of establishing such boundaries, the manner of changing such boundaries, and the manner in which such districts shall function.

Section 26. Officers. The officers of a cooperative shall consist of a president, vice-president, secretary and treasurer, who shall be elected annually by and from the board. When a person holding any such office ceases to be a director, he shall *ipso facto* cease to hold such office. The offices of secretary and of treasurer may be held by the same person. The board may also elect or appoint such other officers, agent, or employees as it deems necessary or advisable and shall prescribe their powers and duties. Any officer may be removed from office and his successor elected in the manner prescribed in the by-laws.

Section 27. Amendment of Articles of Incorporation. A cooperative may amend its articles of incorporation by complying with the following requirements; *Provided, however,* That a change of location of principal office may be effected

in the manner set forth in Section 28. The proposed amendment shall be presented to a meeting of the members, the notice of which shall set forth or have attached thereto the proposed amendment or an accurate summary thereof. If the proposed amendment, with any changes, is approved by the affirmative vote of not less than two-thirds of the total votes cast thereon at such meeting, articles of amendment shall be executed and acknowledged on behalf of the cooperative by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite that they are executed pursuant to this Decree and shall state: (1) the name of the cooperative; (2) the address of its principal office; and (3) the amendment to its articles of incorporation. The president or vice-president executing such articles of amendment shall make the annex thereto an affidavit stating that the provisions of this section with respect to the amendment set forth in such articles were duly complied with.

Section 28. Change of Location of Principal Office. A cooperative may, upon authorization of its board or members, change the location of its principal office by filing a certificate reciting such change of principal office, executed and acknowledged by its president or vice-president under its seal attested by its secretary, in the place provided for in Section 34.

Section 29. Consolidation. Any two or more cooperatives (each of which is hereinafter designated a "consolidating cooperative") may consolidate into a new cooperative (hereinafter designated the "new cooperative"), by complying with the following requirements:

(a) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and proposed articles of consolidation to give effect thereto shall be submitted to a meeting of the members of each consolidating cooperative, the notice of which shall have attached thereto a copy of the proposed articles of consolidation or an accurate summary thereof.

(b) If the proposed consolidation and the proposed articles of consolidation, with any amendments, are approved by the affirmative vote of not less than two-thirds of the total voted cast thereon by each consolidating cooperatives voting thereon at each such meeting, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating cooperative by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The articles of consolidation shall recite that they are executed pursuant to this decree and shall state: (1) the name of each consolidating cooperative and the address of its principal office; (2) the name of the new cooperative and the address of its principal office; (3) a statement that each consolidating cooperative agrees to the consolidation; (4) the names and addresses of the directors of the new cooperative; and

(5) the terms and conditions of the consolidation and the mode of carrying the same into effect, including the manner in which members of the consolidating cooperatives may or shall become members of the new cooperative; and may contain any other provisions not inconsistent with this Decree that are deemed necessary or advisable for the conduct of the business of the new cooperative. The president or vice-president of each consolidating cooperative executing such articles of consolidation shall make and annex thereto an affidavit stating that the provisions of this section with respect to such articles were duly complied with by such cooperative.

Section 30. Merger. Any one or more cooperatives (each of which is hereinafter designated a "merging cooperative") may merge with one or more other cooperatives by complying with the following requirements:

(a) The proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger to give effect thereto shall be submitted to a meeting of the members of each merging cooperative and of the surviving cooperative, the notice of this shall have attached thereto a copy of the proposed articles of merger or an accurate summary thereof.

(b) If the proposed merger and the proposed articles of merger, with any amendments, are approved by the affirmative vote of not less than two-thirds of the total votes cast thereon by each cooperative voting thereon at each such meeting, articles of merger in the form approved shall be executed and acknowledged on behalf of each such cooperative by its president or vice-president and its seal affixed thereto and attested by its secretary. The articles of merger shall recite that they are executed pursuant to this Decree and shall state: (1) the name of each merging cooperative and the address of its principal office; (2) the name of the surviving cooperative and the address of its principal office; (3) a statement that each merging cooperative and the surviving cooperative agree to the merger (4) the names and addresses of the directors of the surviving cooperative, and (5) the terms and conditions of the merger and the mode of carrying the same into effect, including the manner in which members of the merging cooperatives may or shall become members of the surviving cooperative and may contain any other provisions not inconsistent with this Decree that are deemed necessary or advisable for the conduct of the business of the surviving cooperative. The president or vice-president or each cooperative executing such articles of merger shall make an annex thereto an affidavit stating that the provisions of this section with respect to such articles were duly complied with by such cooperative.

Section 31. Effect of Consolidation or Merger.

(a) In the case of consolidation, the existence of the consolidating cooperative shall cease and the articles of consolidation shall be deemed to be the articles or incorporation of the new cooperative; and in the case of merger, the separate existence of the merging cooperatives shall cease and the articles of incorporation of the surviving cooperative shall be deemed to be amended to the extent, if any, that changes therein are provided for in the articles of merger;

(b) All rights, privileges, immunities and franchises and all property, real and personal, including without limitation applications for membership, all debts due on whatever account and all other choses in action of each of the consolidating or merging cooperatives shall be deemed to be transferred to and vested in the new or surviving cooperative without further act or deed;

(c) The new or surviving cooperative shall be responsible and liable for all liabilities and obligations of each of the consolidating or merging cooperatives, and any claim existing or action or proceeding pending by or against any of the consolidation or merger had not taken place, but the new or surviving cooperatives shall be substituted in its place; and

(d) Neither the rights of creditors nor any liens upon the property of any such cooperatives shall be impaired by such consolidation or merger.

Section 32. Conversion of Existing Corporation. Any corporation heretofore organized or registered under the Philippine Non-Agricultural Cooperative Act and supplying or having the corporate power to supply electric energy may convert itself into a cooperative under this Decree by complying with the following requirements, and shall thereupon become the subject to this Decree with the same effect as if originally organized hereunder:

(a) The proposition for the conversion of such corporation and proposed articles of conversion to give effect thereto shall be submitted to a meeting of the members or stockholders of such corporation, the notice of which shall have attached thereto a copy of the proposed articles of conversion or an accurate summary thereof.

(b) If the proposition for the conversion and the proposed articles of conversion, with any amendments, are approved by the affirmative vote of not less than two-thirds of the total votes cast thereon by members at such meeting, and/or, if such corporation is a stock corporation or has both members and voting stockholders, by the affirmative vote of the holders of not less than two-thirds of those shares of the capital stock of such corporation represented at such meeting and voting thereon, articles of conversion in the form approved shall be executed and acknowledged on behalf of such corporation by its president or vice-president and its seal

shall be affixed thereto and attested by its secretary. The articles of conversion shall recite that they are executed pursuant to this Decree and shall state: (1) the name of the corporation and the address of its principal office prior to the conversion into a cooperative; (2) a statement that such corporation elects to become a cooperative, non-profit, membership corporation subject to this Decree; (3) its name as a cooperative; (4) the addresses of the principal office of the cooperative; and (5) the names and address of the directors of the cooperative, and (6) the manner in which members or stockholders of such corporation may or shall become members of the cooperative; and may contain any other provisions not inconsistent with this Decree that are deemed necessary or advisable for the conduct of the business of the cooperative. The president or vice-president executing such articles of conversion shall make and annex thereto an affidavit stating that the provisions of this section were duly complied with in respect to such articles. The articles of conversion shall be deemed to be the articles of incorporation of the cooperative.

Section 33. Dissolution. A cooperative may be dissolved in the following manner: The proposition to dissolve shall be submitted to the members of the cooperative at any annual or special meetings, the notice of which shall set forth such proposition. The members at any such meeting shall approve, by the affirmative vote of not less than a majority of all members of the cooperative, the proposition that the cooperative be dissolved (hereinafter designated the "certificate") shall be executed and acknowledged on behalf of the cooperative by its president or vice-president under its seal, attested by its secretary, stating: (1) the name of the cooperative; (2) the address of its principal office; and (3) that the members of the cooperative have duly voted that the cooperative be dissolved. Also, an affidavit, made by its president or vice-president executing the certificate, shall state that the statements in the certificate are true. Upon the filing of the certificate and affidavit as provided for in Section 34, the cooperative shall cease to carry on its business except to the extent necessary for the winding up thereof, but its corporate existence shall continue until articles of dissolution shall have been filed. The board shall immediately cause notice of the dissolution proceedings to be mailed to each known creditor of and claimant against the cooperative and to be published once a week for two successive weeks in a newspaper of general circulation in the territory in which the principal office of the cooperative is located. The board shall wind up and settle the affairs of the cooperative, collect sums owing to it, liquidate its property and assets, pay an discharge its debts, obligations and liabilities, other than those patrons arising by reason of their patronage, and do all other things required to wind up its business; and, after paying or discharging or adequately providing for the payment or discharge of all its debts, obligations and liabilities, other than those to patrons arising by reason of their patronage, shall distribute any remaining sums and/or unliquidated assets, first, to patrons for the pro rata return of all amounts standing to their credit by reason of their patronage; second, to members for the pro rata repayment of membership fees; and third, to patrons for

the amounts of any outstanding contributions in aid of construction they have made. Any sums and/or unliquidated assets then remaining shall be distributed in such manner as provided in the cooperative's articles of incorporation or by-laws, which may provide for distribution of such sums or assets on a patronage basis to persons who were members in one or more prior years or for transfer thereof to a new cooperative to succeed the one being dissolved. The board shall thereupon authorize the execution of articles of dissolution, which shall be executed and acknowledged on behalf of the cooperative by its president or vice-president, and its seal shall be affixed thereto and attested by its secretary. The articles of dissolution shall recite that they are executed pursuant to this Decree and shall state: (1) the name of the cooperative; (2) the address of its principal office; (3) the date on which the certificate of election to dissolve was filed; (4) that there are no actions or suits pending against the cooperative; (5) that all debts, obligations and liabilities of the cooperative have been paid and discharged or that provision to the extent possible has been made therefor; and (6) that the provisions of this section have been duly complied with. The president or vice-president executing the articles of dissolution shall make the annex thereto an affidavit stating that the statement made therein are true.

Section 34. Filing of Articles and Certificates. Articles of incorporations, amendment, consolidation, merger, conversion, or dissolution and certificates of changes in the location of principal offices and of elections to dissolve, when executed and acknowledged and accompanied by such affidavits as may be required by applicable provisions of this Decree, shall be presented to the Administrator for filing in the records of his office. If he shall find that such conform to the requirements of this Decree, he shall so certify and shall file such in the records of his office. Upon such certification and filing, the incorporation, amendment, consolidation, merger, conversion, dissolution or certificate provided for therein shall be in effect.

Section 35. Non-profit, Non-discriminatory, Area Coverage Operation and Service. A cooperative shall be operated on a non-profit basis for the mutual benefit of its members and patrons; shall, as to rates and services make or grant no unreasonable preference or advantage to any member or patron nor subject any member or patron to any unreasonable prejudice or disadvantage; shall not establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service; shall not give, pay or receive any rebate or bonus, directly or indirectly, or mislead its members in any manner as to rates charged for its services; and shall furnish service on an area coverage basis; *Provided*, That for any extension of service which if treated on the basis of standard terms and conditions is so costly as to jeopardize the financial feasibility of the cooperative's entire operation, the cooperative may require such contribution in aid of construction, such facilities extension deposit, such guarantee of minimum usage for a minimum term or such other reasonable commitment on the part of the person to be served as may be necessary and

appropriate to remove such jeopardy, but no different in standard rates for use of service shall be imposed for such purpose.

The by-laws of a cooperative or its contracts with members and patrons shall contain such reasonable terms and conditions respecting membership, the furnishing of service and the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its non-profit, cooperative character and to ensure compliance with this section. No bona fide applicant for membership on non-member patronage who is able and willing to satisfy and abide by all such terms and conditions shall be denied arbitrarily, capriciously or without good cause.

Section 36. Disposition of Property.

(a) The board of a cooperative shall have full power and authority, without authorization by the members thereof, to authorize the execution and delivery of a mortgage or a deed of trust, or the pledging or encumbering otherwise, of any or all of the property, assets, rights, privileges, licenses, franchises and permits of the cooperative, whether acquired or to be acquired, and whenever situated, as well as the revenues therefrom, all upon such terms and conditions as the board shall determine, to secure any borrowing by or indebtedness of the cooperative.

(b) A cooperative may not otherwise sell, lease or, except by consolidation or merger, otherwise dispose of the property (other than merchandise and property which shall represent not in excess of ten per centum of the value of the cooperative's total assets, or which in the judgment of the board are not necessary or useful in operating the cooperative) unless such sale, lease or, except in the case of consolidation or merger, other disposition is (1) authorized by the affirmative vote of not less than a majority of all members of the cooperative and (2) consented by the NEA and any other lending source which then holds a lien on any of the cooperative's properties.

Section 37. Non-Liability of Members for Debts of Cooperative. No member shall be liable or responsible for any debts of the cooperative and the property of the members shall not be subject to execute therefor.

Section 38. Limitation of Actions. No action or suit may be brought against a cooperative, or against any agent, servant or employee thereof, by reason of the maintenance of electric transmission or distribution lines, or any related equipment, facilities or machinery, or any real property after the expiration of a period of five (5) years of continuous maintenance of such lines or related equipment facilities or machinery.

Section 39. *Assistance to Cooperatives; Exemption from Taxes, Imposts, Duties, Fees; Assistance from the National Power Corporation.* Pursuant to the national policy declared in Section 2, the Congress hereby finds and declares that the following assistance to cooperative is necessary and appropriate:

(a) Provided that it operates in conformity with the purposes and provisions of this Decree, cooperatives (1) shall be permanently exempt from paying income taxes, and (2) for a period ending on December 31; of the thirtieth full calendar year after the date of a cooperative's organization or conversion hereunder, or until it shall become completely free of indebtedness incurred by borrowing, whichever event first occurs, shall be exempt from the payment (a) of all National Government, local government and municipal taxes and fees, including franchise, filing, recordation, license or permit fees or taxes and any fees, charges, or costs involved in any court or administrative proceeding in which it may be a party, and (b) of all duties or imposts on foreign goods acquired for its operations, the period of such exemption for a new cooperative formed by consolidation, as provided for in Section 29, to begin from as of the date of the beginning of such period for the constituent consolidating cooperative which was most recently organized or converted under this Decree: *Provided*, That the Board of Administrators shall, after consultation with the Bureau of Internal Revenue, promulgate rules and regulations for the proper implementation of the tax exemptions provided for in this Decree.

(b) The National Power Corporation shall, except with respect to the National Government, give preference in the sale of its power and energy to cooperatives, and shall otherwise provide the maximum support of and assistance to cooperatives of which it is capable, including assistance in developing dependable and reliable arrangements for their supplies of bulk power, either from itself, or from other sources. In pursuance of the foregoing policy, the National Power Corporation shall not, except upon prior written agreement approved by the cooperative's board, compete in the sale of power and energy which without regard to the location of the point of delivery thereof, will be utilized and consumed within any area franchised to a cooperative.

Section 40. *Exemption from Board of Power and Waterworks and Securities Exchange Commission.*

(a) Cooperatives shall be exempt from regulation by the Board of Power and Waterworks.

(b) The provisions of the Securities Act shall not apply to any note, bond or other evidence of indebtedness issued by any cooperative or to any mortgage, deed of trust, indenture or other instrument executed to secure the same. The provisions of said Act shall not apply to the issuance of

membership certificates or any other evidence of member or patron interest by a cooperative.

CHAPTER IV Franchises; Regulation of cooperatives

Section 41. *Applicability.* This Chapter shall apply only to electric franchises as defined in Section 3. It shall not be applicable to franchises for any other utility service or to those separable portions of franchises covering any other type of utility service though such franchises may also cover electric service. The Board of Administrators shall hear and determine all questions which may arise under this Section.

Section 42. *Repeal of Franchise Powers of Municipal, City and Provincial Governments.* The powers of municipal, city and provincial governments to grant franchises, as provided for in Title 34 of the Philippines Statutes or in any special law, are hereby repealed; *Provided*, That this section shall not impair or invalidate any franchise heretofore lawfully granted by such a government or repeal any other subsidizing power of such governments to require that electric facilities and related properties be so located, constructed, operated and maintained as to be safe to the public and not to unduly interfere with the primary use of streets, roads, alleys and other public ways, buildings and grounds over, upon or under which they may be built.

Section 43. *Franchising Powers Delegated to the NEA.* The power hereafter to grant and thereafter to repeal, alter or amended new franchises, to repeal, alter or amend all franchises heretofore granted by the Congress (or by the President or by the National Assembly after it comes into existence) , and to repeal, alter or amend all franchises heretofore granted by any municipal, city or provincial government, is hereby delegated to the NEA, whose Board of Administrators shall, acting as a Commission, administer the provisions of this Chapter. Provisions of Republic Act 2677 to the contrary notwithstanding, no municipality shall hereafter initiate the operation, or after December 31, 1973, continue any operation heretofore initiated, of any service for sale at retail unless it shall first obtain a franchise from the NEA in accordance with the provisions of this Chapter. In exercising the powers herein delegated, the NEA shall at all times seek to serve the National objective of the most rapid total electrification of the Philippines on an area coverage basis. Without limiting the generality of the foregoing sentence, the NEA is hereby authorized, empowered and directed:

(a) Within one hundred eighty days after the effective date of this Chapter (and periodically thereafter, at least once annually) to notify and require every person holding a franchise to report to it, within not less than ninety days after such notice, an accurate description of the geographic area encompassed in such franchise, the number of households therein receiving adequate and dependable service, the number of households

therein receiving service which is not adequate and dependable, the number and type of other retail customers therein receiving adequate and dependable service or service which is not adequate and dependable, the approximate total number of households therein, the date such franchise was granted and such other information and data as the NEA for the purpose of implementing this section may require, and, on the basis of such reports and otherwise, including complaints:

1. to review such franchises to determine whether the holders thereof are furnishing service on an area coverage basis or are engaged in effective measures to furnish such service within a reasonable time;

2. to repeal and cancel any franchise if the NEA finds that the holder thereof is not then furnishing, and is unable or unwilling within a reasonable time to furnish, adequate and dependable service on an area coverage basis within such area; and

3. to alter and condition such or other existing franchises and to issue new franchises to the end of assuring area coverage service throughout the Nation as in this Decree contemplated; *Provided*, That no franchise shall be altered, conditioned, repealed or cancelled, and no franchise shall be granted, without first affording the holder thereof, or the contending applicants therefor, if such be the case, and any other interested parties opportunity for hearing; and

(b) Upon determining, after affording opportunity for hearing to all interested parties, that such is necessary or appropriate to assure or expedite the furnishing of service on an area coverage basis, to require any public service entity to interconnect its generation, transmission or distribution facilities or related facilities with, and through such interconnection to exchange, sell or purchase power and energy with, to or from or to transmit power and energy on behalf of, any other public service entity or, if it so requests or consents, the NPC; and, if such public service entities (and, if such be the case, the NPC) are unable between or among themselves to agree upon such, to establish the manner and degree, to fix and apportion the financial responsibility and sharing of costs, and to determine the other terms and conditions of such interconnection, exchange, sale, purchase or transmission; *Provided, however*, That the provisions of Section 45 to the contrary notwithstanding, the provisions of this paragraph shall apply to industrial plants, factories, mills, mines and similar or other power generating entities in which case they shall qualify as public service entities for purposes of Section 4 (f) .

Section 44. *Preference to Cooperatives.* Whenever two or more public service entities are affected by and have competing or conflicting interests with respect to the granting, repeal, alteration or conditioning of the same franchise or franchises, and one or more of such entities are cooperatives, the NEA shall accord preference to a cooperative over any other type of public service entity (and shall prefer one cooperative over another) unless and except to the extent that an order in favor of another type of public service entity (or of another cooperative) will, as found by the NEA, result both earlier and ultimately in the furnishing and extending of area coverage service (1) to a greater number of households, (2) over a larger geographic area, and (3) on the basis of the same or lower rates, charges and fees.

Section 45. *Furnishing Service Without a Franchise Prohibited.* No person shall furnish or extend service to the public within any area for which such person has not been granted a franchise or after such a franchise has been repealed and cancelled or so conditioned or altered as to prohibit service therein; *Provided*, That such service may be continued and extended therein, and the NEA, after affording opportunity for hearing to any interested party, may by order require that it be so continued and extended until service to the customers of such person is made available by a public service entity lawfully authorized to serve therein.

Section 46. *Additional Regulation of Cooperatives by the NEA.* In addition to the other ways in which cooperatives are subject to regulation by the NEA as provided in this Decree, the NEA, on its own motion or upon complaint but only after affording opportunity for hearing to all interested parties, is empowered to and shall (1) require a cooperative to extend or improve service upon the NEA's determination that such should be done in furtherance of the purposes of this Decree and that such may reasonably be done without undue impairment of the feasibility of the cooperative's operation and financial condition; and (2) require a cooperative to cease and correct any practice or act which the NEA determines to be in violation of the provisions of Section 35, and in connection with such authority it may require a cooperative to file with the NEA, and to make accessible to any person upon request therefor, copies of all rates, charges, contract forms, fee or deposit schedules, by-laws, and service rules and regulations.

Section 47. *Hearings and Investigations.* The NEA is empowered to conduct such hearings and investigations and to issue such orders as are necessary for it to implement the provisions of this Chapter, and in connection therewith, without necessary of previous hearing, to require any public service entity or the officials thereof to furnish to it such information and data, including statements of accounts, schedules of rates fees and charges, contracts, service rules and regulations, articles of incorporation, by-laws, audit reports and other internal records, documents, policies and procedures, as will enable the NEA to be sufficiently informed in exercising its powers and authorities; *Provided*, That no order shall issue finally determining and substantially affecting any right of any person subject to the NEA's jurisdiction without first affording such person and any other interested person opportunity for hearing as a party in the hearing proceeding.

Section 48. *Parties and Intervenor in NEA's Proceedings.* Public service entities or any other interested person may invoke the NEA's exercise of its powers and authorities provided for in Section 43, 44, 45, 46 and 47 by filing verified applications or complaints with the NEA, and the NEA, on its own motion solely, may institute proceedings in connection with all matters coming under its jurisdiction as provided for in said sections. In any proceeding conducted by the NEA, including proceedings to establish NEA rules and regulations, all persons having a substantial interest therein shall, upon petition therefor, be permitted by the NEA to intervene as full parties, and the NEA, in its discretion, may permit persons having an insubstantial interest therein to intervene as a full party or on such limited basis as the NEA may prescribe.

Section 49. *NEA Rules and Regulations.* The NEA shall establish appropriate rules and regulations to carry out the provisions of this Chapter IV, including rules for the conduct of NEA investigations, proceedings and hearing; and shall timely publish the same when adopted or amended to the end that all persons affected thereby shall be given reasonable notice thereof.

Section 50. *Notice.*

(a) With respect to any NEA proceeding, investigation or hearing (including such as are for the purpose of establishing NEA rules and regulations) which may substantially affect the rights or interests of any person or persons (including the general public or the National Government or any department, agency, instrumentality of political subdivision thereof, if such be the case) , the NEA shall cause timely notice in writing to be furnished to, or served upon, or appropriately published to such person or persons to the end of affording them reasonable opportunity, as a party or otherwise, directly to participate, or otherwise to have their positions, views and interests adequately presented to or represented, in such proceedings, investigation or hearing.

(b) Upon the completion of any such proceeding, investigation or hearing, the NEA shall cause timely notice of any order issuing thereupon to be furnished to, or served upon, or appropriately published to any person or persons (including the general public or the National Government or any department, agency, instrumentality or political subdivision thereof, if such be the case) who will be directly affected thereby. Such notice shall be supplementary to, not in conflict with or in lieu of, the notices and services otherwise provided for in this Chapter.

Section 51. *Hearings Conducted by Board of Administrators or any Member Thereof.* NEA hearings pursuant to this Chapter may be conducted by the Board of Administrators en banc or by any one or more members thereof, as the Board of Administrators may decide; *Provided*, That the Administrator shall preside when the Board of Administrators sits *en banc*; *Provided, further*, That all hearings shall be of record; and *Provided finally*, that findings, determinations, orders and rulings based upon such hearings shall require the affirmative majority of all the members of the Board of Administrators upon the certification, to become a part of such findings, determinations and orders, on the part of any member of the Board who was absent from the hearings that he has read the record of the same.

Section 52. *Compensation.* The members of the Board of Administrators and other hearing officers as the Board of Administrators may designate shall be entitled to per diem for each hearing actually conducted or attended by them in such amount as may be fixed by the President of the Philippines.

Section 53. *Hearing Rules; Contempt.* All hearings and investigations conducted by the NEA shall be governed by rules adopted by the NEA, and in the conduct thereof the NEA shall not be bound by the technical rules of legal evidence; *Provided*, That the NEA or such member of the Board of Administrators when conducting a hearing, may summarily punish for contempt by a fine not exceeding two hundred pesos (P200.00) or by imprisonment not exceeding ten (10) days, or both, any person guilty of misconduct in the presence of the hearing or so near the same as to interrupt the hearing, proceeding, session or investigation including cases in which a person present at a hearing, proceeding, session or investigation refuses to be sworn as a witness or to answer as such when lawfully required to do so. To enforce the provisions of this section, the NEA, or such member thereof, may, if necessary, request the assistance of the municipal police for the execution of any order made for said purpose.

Section 54. *Subpoenas; Contempt.*

(a) The NEA may issue subpoenas and subpoenas *duces tecum*, for witness in any matter of inquiry pending before it, and require the production of all books, papers, tariffs, contracts, agreements, and all other documents which it may deem necessary in any proceeding. Such process shall be issued under the seal of the NEA, signed by one of the members of the NEA Board of Administrators, and may be served by any person of full age, or by registered mail. In case of disobedience to such subpoena, the NEA may invoke the aid of the Supreme Court, or of any Court of First Instance of the Philippines in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provision of this Chapter, and the Supreme Court, or any Court of First Instance of the Philippines within the jurisdiction of

which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena, issue to any public service entity subject to the provisions of this Decree, or to any person, an order requiring such public service entity or person to appear before the NEA and produce books and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the Court may be punished by such court as contempt thereof.

(b) Any person who shall neglect or refuse to answer any lawful inquiry or produce before the NEA books, papers, tariffs, contracts, agreements, and documents, or other things called for by the NEA if his power to do so, in obedience to the subpoena or lawful inquiry of the NEA, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine not exceeding five thousand pesos (P5,000.00) or by imprisonment not exceeding one year, or both in the discretion of the court;

(c) Any NEA Board Member shall have the power to administer oaths in all matters under the jurisdiction of the NEA;

(d) Any person who shall testify falsely or make any false affidavit or oath before the NEA or before any of its members shall be guilty of perjury, and, upon conviction thereof in

a court of competent jurisdiction, shall be punished as provided by law;

(e) Witnesses appearing before the NEA in obedience to subpoena or subpoena *duces tecum* shall be entitled to receive the same fees and mileage allowance as witnesses attending Courts of First Instance in civil cases;

(f) Any person who shall obstruct the NEA or any member of the NEA Board while engaged in the discharge of official duties, or who shall conduct himself in a rude, disrespectful or disorderly manner before the NEA or any NEA Board Member while engaged in the discharge of official duties, or shall orally or in writing be disrespectful to, offend or insult any of the NEA board members on occasion or by reason of the performance of official duties, upon conviction thereof by a court of competent jurisdiction, shall be punished for each offense by a fine not exceeding one thousand pesos (P1,000) , or by imprisonment not exceeding six months, or both, in the discretion of the court.

Section 55. Testifying. No person shall be excused from testifying or from producing any book, document, or paper in any investigation or inquiry by or upon the hearing before the NEA when ordered so to do by the NEA, except when the testimony or evidence required of him may tend to incriminate him. Without the consent of the interested party, no member or employee of the NEA shall be compelled or permitted to give testimony in any civil suit to which the

NEA is not a party, with regard to secrets obtained by him in the discharge of his official duty.

Section 56. Depositions. The NEA may, in any investigation, proceeding or hearing, by its order in writing, cause the deposition of witnesses residing within or without the Philippines to be taken in the manner prescribed by the Rules of Court. Where witnesses reside in places distant from Manila and it would be inconvenient and expensive for them to appear personally before the NEA, the NEA may, by proper order, commission any clerk of the Court of First Instance, municipal judge or justice of the peace of the Philippines to take the deposition of witnesses in any case pending before the NEA. It shall be the duty of the official so commissioned to designate promptly a date or dates for the taking of such deposition, giving timely notice to the parties, and on said date to proceed to take the deposition, reducing it to writing. After the depositions have been taken, the official so commissioned shall certify to the depositions taken and forward them as soon as possible to the NEA. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken. In case there are no stenographers available, the testimony shall be taken in long hand by such person as the clerk of court, the municipal judge or justice of the peace may designate. The NEA may also commission a notary public to take the depositions in the same manner herein provided.

The Board may also, by proper order, authorize any of the attorneys of the legal division or division chiefs of the NEA to hear and investigate any case filed with the NEA or any matter within the jurisdiction of the NEA and in connection therewith to receive such evidence as maybe material thereto. At the conclusion of the hearing or investigation, the attorney or division chief so authorized shall submit the evidence received by him for the Board of Administrators to enable the latter to render its decision.

Section 57. Service. Every order made by the NEA shall be served upon the person or public service entity affected thereby within ten (10) days from the time said order is filed, by personal delivery or by ordinary mail, upon the attorney of record or, in case there be no attorney of record, upon the party interested; and in case a certified copy is sent by registered mail, the registry mail receipt shall be *prima facie* evidence of the receipt of such order by the public service entity in due course of mail.

Section 58. Reconsideration. Any interested party may request the reconsideration of any order, ruling, or decision of the NEA by means of a petition filed not later than fifteen (15) days after the date of the notice of the order, ruling, or decision in question. The grounds on which the request for reconsideration is based shall be clearly and specifically stated in the petition. Copies of said petition shall be served on all parties interested in the matter. It shall be the duty of the NEA to decide the same within thirty (30) days, either denying the petition or revoking or modifying the order, ruling, or decision under

consideration. If no petition for reconsideration is filed, no review by the Supreme Court as hereinafter provided shall be allowed.

Section 59. Court Review. The Supreme Court is hereby given jurisdiction to review any order, ruling, or decision of the NEA and to modify or set aside such order, ruling, or decision when it clearly appears that there was no evidence before the NEA to support reasonably such order, ruling, or decision, or that the same is contrary to law, or that it was without the jurisdiction of the NEA. The evidence presented to the NEA, together with the record of the proceedings before the NEA, shall be certified by the NEA to the Supreme Court. Any order, ruling, or decision of the NEA may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by rules of the Supreme Court. Any order, ruling, or decision of the NEA may be reviewed on the application of any person or public service entity aggrieved thereby and who was a party in the subject proceeding, by certiorari in appropriate cases or by a petition for review, which shall be filed within thirty (30) days from the notification of the NEA order, decision, or ruling or reconsideration. Said petition shall be placed on file in the office of the Clerk of the Supreme Court who shall furnish copies thereof to the NEA and other interested parties.

Section 60. No Stay. The institution of a writ of certiorari or other special remedies in the Supreme Court shall in no case supersede or stay any order, ruling, or decision of the NEA unless the Court shall so direct, and the appellant may be required by the Court to give bond in such form and of such amount as may be deemed proper.

Section 61. NEA Council. The chief of the legal division or any other attorney of the NEA shall represent the same in all judicial proceedings. It shall be the duty of the Solicitor General to represent the NEA in any judicial proceeding if, for special reasons, the administrators shall request his intervention.

CHAPTER V Transitory Provisions

Section 62. Existing NEA Continued.

(a) The existing Board of Administrators of the NEA and the Administrator thereof shall be the Board of Administrators and Administrator provided for under this Decree, and their respective terms shall be and continue as already established.

(b) Any preference to the NEA in any existing law or in any executive order or proclamation of the President shall, with respect to any duty or

function assumed by the NEA pursuant to said Decree, be deemed hereafter to have reference to the NEA established under this Decree;

(c) The properties, assets, rights, choses in action, obligations, liabilities, records and contracts of the NEA are hereby transferred to and are vested in, and assumed by the NEA established under this Decree;

(d) All personnel of the NEA shall be absorbed and transferred to the NEA established under this Decree without demotion in rank nor reduction in salary; and

(e) All on-going projects and/or approved loans of the NEA established under Republic Act No. 6038 shall be reviewed by the NEA established under this Decree and, insofar as found to be economically feasible in accordance with sound management, engineering and technological standards, shall be continued and completed on a priority basis.

Section 63. Separability of Provisions. If any provision of this Decree, or the application of such provision to any person or circumstance, is declared invalid, the remainder of the Decree or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 64. Effect on Other Acts. All acts or parts of Acts inconsistent herewith are repealed or modified accordingly.

Section 65. Effectivity. This Decree shall take effect immediately.

Done in the City of Manila, this 6th day of August in the year of Our Lord, nineteen hundred and seventy-three.

FERDINAND E. MARCOS

This entry was posted under [Executive Issuances \(http://www.gov.ph/section/laws/executive-issuances/\)](http://www.gov.ph/section/laws/executive-issuances/), [Presidential Decrees \(http://www.gov.ph/section/laws/executive-issuances/presidential-decrees-executive-issuances/\)](http://www.gov.ph/section/laws/executive-issuances/presidential-decrees-executive-issuances/) and tagged [Executive Issuances \(http://www.gov.ph/tag/executiveissuances/\)](http://www.gov.ph/tag/executiveissuances/), [Ferdinand E. Marcos \(http://www.gov.ph/tag/ferdinand-e-marcos/\)](http://www.gov.ph/tag/ferdinand-e-marcos/), [Presidential Decrees \(http://www.gov.ph/tag/presidential-decrees/\)](http://www.gov.ph/tag/presidential-decrees/). Bookmark the [permalink \(http://www.gov.ph/1973/08/06/presidential-decree-no-269/\)](http://www.gov.ph/1973/08/06/presidential-decree-no-269/).



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