

[ , November 28, 2013 ]

**NEA THE REVISED NEA ADMINISTRATIVE RULES OF  
PROCEDURES OF 2013**

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**WHEREAS**, Section 10, Chapter II of Presidential Decree No. 269, as amended by Presidential Decree No. 1645, empowers the National Electrification Administration (NEA) to issue rules and regulations in all matters affecting Electric Cooperatives;

**WHEREAS**, Section 4 (q) of Presidential Decree No. 269, as amended by Republic Act No. 10531 in relation to Section 5 (q) of its Implementing Rules and Regulations (IRR) vests upon NEA the primary and exclusive jurisdiction in the adjudication of complaints against electric cooperative officers, whether stock or non-stock, and all matters relating to the effective implementation of the provisions of RA No. 10531;

**WHEREAS**, under Section 4-A (a) & (b) of Presidential Decree No. 269, as amended by Republic Act No. 10531, and Section 6 (a) & (b) of its Implementing Rules and Regulations, the NEA, has the following powers –

- “(a) issue orders, rules and regulations, *motu proprio* or upon petition of third parties, to conduct investigations, referenda and other similar actions on all matters affecting the electric cooperatives;
- “(b) issue preventive or disciplinary measures including, but not limited to, suspension or removal and replacement of any or all of the members of the board of directors and officers of the electric cooperative, as the NEA may deem fit and necessary and to take any other remedial measures as the law or any agreement or arrangement with NEA may provide, to attain the objectives of this Act.

**WHEREAS**, Section 7 of the Implementing Rules and Regulations of RA 10531 enumerates the jurisdiction of NEA over administrative cases:

- a) Cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA’s exercise of its *motu proprio* powers as provided in Section 6 of the Act. For the purpose of this section, the ECs officers referred to shall be the following:
  - i. Members of the Board of Directors;
  - ii. General Manager;
  - iii. Department Managers;
  - iv. Sub-Office Area Managers;
  - v. Members of the Bids and Awards Committee; or
  - vi. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

**NOW, THEREFORE,** the following Rules of Procedure are hereby adopted and promulgated:

## **RULE I TITLE**

**SECTION 1.** These Rules shall be known as “**THE NEA ADMINISTRATIVE RULES OF PROCEDURES OF 2013.**”

**SECTION 2. SUPPLETORY APPLICATION OF RULES OF COURT.** The pertinent provisions of the 1997 Rules of Civil Procedures shall, in the interest of speedy and efficient administrative justice, be applied by analogy and/or in a suppletory character and effect, in the absence of any applicable provision herein.

## **RULE II DEFINITION OF TERMS**

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

- (a) “**NEA**” shall mean the Board of Administrators of the National Electrification Administration;
- (b) “**ADMINISTRATIVE COMMITTEE**” or “**ADCOM**” shall mean the body or the teams in which NEA has delegated the authority to receive evidence and to make the appropriate recommendation in the administrative cases pending before it. The NEA, upon the recommendation of the Administrator, may increase or reduce the number of ADCOM teams.
- (c) “**ADMINISTRATIVE CASES**” shall mean cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA’s exercise of its motu proprio powers as provided in Section 6 of the RA 10531.
- (d) “**EC OFFICERS**” shall mean any or all of the following:
  - 1. Members of the Board of Directors;
  - 2. General Manager;
  - 3. Department Managers;
  - 4. Sub-Office Area Managers;
  - 5. Members of the Bids and Awards Committee; or
  - 6. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

## **RULE III PLEADINGS, NOTICES AND APPEARANCES**

**SECTION 1. COMPLAINT.** A complaint against any or all of the EC Officers shall not be given due course unless it is in writing and verified to by the complainant(s) with payment of filing fee in the amount of Five Thousand (P5,000.00) Pesos. However, in cases initiated by NEA, the complaint need not be verified.

Payment of filing/docket fees is jurisdictional and its non-payment after the period specified shall *ipso facto* cause the dismissal of the case.

If the case is against a General Manager or other officers of an Electric Cooperative, the complainant shall have the option to file the complaint with the Board of Directors of said EC, whose decision is subject to approval by NEA on automatic review, or directly with the ADCOM. However, if the case is between the GM and the Board, the same should be filed with the ADCOM.

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

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

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

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

**SECTION 2. ISSUANCE OF SUMMONS.** Within two (2) days from receipt of the complaint, the ADCOM Secretariat shall issue the required summons, attaching thereto a copy of the complaint/petition and supporting documents, if any. The summons, together with a copy of the complaint, shall specify the date when to file an answer/comment.

**SECTION 3. FILING AND SERVICE OF PLEADINGS.** The filing and service of pleadings, motions, notices, orders, judgments and other papers shall be made either personally, by mail or through private courier.

All pleadings shall be filed/submitted to the ADCOM Secretariat in five (5) legible copies with proof of service to the adverse party/ies, as the case may be.

The "Answer", which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statement covering testimonies of witnesses, if there be any, in support of his/her case. It shall also include a statement indicating whether or not he elects a formal investigation.

The Answer shall be submitted within an inextendible period of fifteen (15) from receipt of the summons with the complaint.

**SECTION 4. PROHIBITED PLEADINGS AND MOTIONS.** The following pleadings, motions shall not be allowed and shall not be acted upon in the Cases covered by these Rules:

- (a) Motion to Dismiss the complaint except on, the ground of lack of jurisdiction over the subject matter, and forum shopping:

- (b) Motion for a Bill of Particulars;
- (c) Motion for New Trial;
- (d) Petition for Relief from Judgment when filed with the ADCOM;
- (f) Motion to Declare Respondent/s in Default.

**SECTION 5. FAILURE TO ANSWER.** If the respondent fails to file his answer to the complaint within the reglementary period, he shall be considered to have waived his right thereto and formal hearing and investigation may commence.

**SECTION 6. SERVICE OF NOTICES AND RESOLUTIONS.** (a) Notices or summonses and copies of orders, shall be served on the parties or counsel to the case personally by the duly authorized public officer within three (3) days from receipt thereof or by registered mail **or through fax transmittal**; *provided* that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court: *Provided, further*, That in cases of decisions and final awards, copies thereof shall be served on both parties or their counsel/representative personally or by registered mail; *Provided, further*, That in cases where a party to a case or his counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected upon actual receipt thereof; *Provided, finally*, That where parties are so numerous, service shall be made on counsel and upon such number of complainants, as maybe practicable.

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

**SECTION 7. PROOF AND COMPLETENESS OF SERVICE.** The return is *prima facie* proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

**SECTION 8. APPEARANCES.** An attorney appearing for a party is presumed to be properly authorized for that purpose. However, he shall be required to indicate in his pleadings his/her PTR and IBP numbers for the current year, his roll of attorneys' number **and the details of his/her MCLE Compliance.**

A non-lawyer may appear before the NEA - ADCOM or any Hearing Officer only if:

- (a) he represents himself as party to the case, or;
- (b) he is a duly-accredited member of any legal aid office duly recognized by the Department of Justice or Integrated Bar of the Philippines.

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

Any change in the address of counsel should be filed with the ADCOM and furnished the adverse party or counsel. Any change or withdrawal of counsel/ representative shall be made in accordance with the Rules of Court.

#### **RULE IV**

##### **VENUE, ASSIGNMENT AND DISPOSITION OF CASES**

**SECTION 1. VENUE.** All cases which the ADCOM has authority to hear and recommend for decision shall be filed with the ADCOM Secretariat of NEA.

**SECTION 2. RAFFLE AND ASSIGNMENT OF CASES.** All complaints received by the ADCOM Secretariat shall within a period of seventy-two (72) hours from receipt thereof be raffled and assigned to either teams of the ADCOM.

All pleadings subsequent to the filing of the complaint shall be forwarded to the ADCOM where the case is pending.

**SECTION 3. CONSOLIDATION OF CASES/COMPLAINTS.** Where there are two or more cases/complaints pending before different ADCOM Teams involving the same parties and common principal causes of action or the same parties with different causes of action, the subsequent cases/complaints may be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases/complaints shall be acted upon by the ADCOM to whom the first case was assigned.

In case of objection to the consolidation, the same shall be resolved by the ADCOM.

An order resolving the motion shall be inappealable.

**SECTION 4. DISPOSITION OF CASES.** When a case is assigned to an ADCOM Team, the entire case and any or all incidents thereto shall be considered assigned to such team; and the same shall be heard and acted upon in accordance with these rules.

#### **RULE V**

##### **PROCEEDINGS BEFORE THE NEA-ADCOM OR HEARING OFFICE**

**SECTION 1. MANDATORY CONCILIATION/ MEDIATION CONFERENCE.** Immediately upon receipt of the Answer, the ADCOM shall issue a Notice of Mandatory Conciliation/Mediation Conference for the purpose of amicably settling the case, determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulations of facts and threshing out all other preliminary matters.

**The parties shall file with the ADCOM Secretariat and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the Conciliation and Mediation Conference, their respective Preliminary Conference Brief which shall contain, among others:**

- a. A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;**
- b. A summary of admitted facts and proposed stipulation of facts;**
- c. The issues to be tried or resolved;**
- d. The documents or exhibits to be presented, stating the purpose**