

REPUBLIC ACT No. 6038

AN ACT DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, PROVIDING FOR THE ORGANIZATION OF THE NATIONAL ELECTRIFICATION ADMINISTRATION, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATION, THE REPEAL OF R.A. NO. 2717, AND FOR OTHER PURPOSES.

**CHAPTER I
POLICY AND DEFINITIONS**

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

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

Section 3. Definitions. As used in this Act, 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, provided for in this Act.
- b. "Cooperative" shall mean a corporation organized under this Act or a cooperative supplying or empowered to supply service which has heretofore been organized under the Philippine Non-Agricultural Co-operative Act, whether converted under this Act or not.
- c. "Public service entities" shall mean (1) a cooperative and (2) any local government or (3) other privately-owned public service entities in operation which supply and are empowered to supply service and are subject to regulation by the Public Service Commission.
- 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 furnishing 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 the geographic area franchised to a public service entity or any lesser geographic area for service to which the public service entity has borrowed or may borrow funds for 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. "GSIS", "SSS", "DBP", "NEC", "NEC-FS" and "NPC" shall mean, respectively, Government Service Insurance System, Social Security System, Development Bank of the Philippines, National Economic Council, National Economic Council-Foreign Source and National Power Corporation.

l. "Average interest rate" shall mean that average which is determined by dividing (a) the sum of the yearly interest payment applying to all outstanding borrowed indebtedness and of the yearly interest payment that will apply to the new borrowed indebtedness being proposed (but excluding interest that will or may be paid on deferred or overdue interest payments) by (b) the sum of all outstanding borrowed indebtedness and the new borrowed indebtedness being proposed.

m. "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 investments 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.

n. "Board" shall mean the board of directors of a cooperative.

CHAPTER II THE NATIONAL ELECTRIFICATION ADMINISTRATION

Section 4. *National Electrification Administration.* Board of Administrators. For the purpose of administering the provisions of this Act there is hereby established an agency to be known as the National Electrification Administration, the powers of which shall be vested in and exercised by a Board of Administrators composed of a Chairman and four 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 with the consent of the Commission on Appointments 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 two 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 term, shall be filed for the unexpired term only. The Chairman and every member of the Board of Administrators shall serve without compensation and any form of allowances but, unless he is a public official or employee, shall be entitled to a per diem of not more than fifty pesos for each meeting actually attended by him: *Provided*, That the total of such per diems shall not exceed five hundred pesos per month per member.

The Board of Administrators shall meet regularly at least twice a month and as often as the exigencies of the NEA'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 of the Board. In the absence of the Chairman at a Board meeting duly called, the Administrator, as *ex-officio* member shall preside over the meeting.

The Board of Administrators is hereby authorized to carry out the provisions and purposes of this Act, and, subject to the approval of the President, to promulgate rules and regulations to govern its proceedings and the exercise of the NEA's authority, to organize, reorganize and determine the NEA's personnel and its staffing pattern, and to define their powers and duties.

The Board of Administrators shall have under its control and supervision an Administrator who shall serve as the Chief Executive Officer of the NEA responsible for carrying out its purposes and programs under the direction of the Board of Administrators, exercise such power and authority as the Board may delegate to him, and perform such acts as he is under this Act authorized and directed and as the Board may authorize and/or direct him so to do. The Administrator shall be a person of known integrity, competence and experience in technical and executive fields related to the purposes of this Act. He shall be appointed by the President of the Philippines with the consent of the Commission on Appointments and shall receive a salary to be fixed by the Board of Administrators with the approval of the President not exceeding twenty four thousand pesos per annum. He shall serve for a term of six years and shall not be removable except for cause.

Section 5. *Authorities, Powers and Directives.* The Board of Administrators 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 Act, specifically authorized, empowered and directed:

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

(b) To assist public service entities, with preference to cooperatives, in planning, developing, coordinating, establishing, operating, maintaining, repairing and renovating facilities and systems for supplying area coverage service, and for such purpose to furnish, to the extent possible from the NEA technical staff and otherwise but without charge therefor, technical and professional assistance and guidance, information, data and the results of any investigations, studies or reports conducted or made by the NEA;

(c) When sufficient funds therefor are not available from the revolving fund hereinafter established, to serve, without charge for such service, as the agent of public service entities which are cooperatives or local governments in securing loans directly to such entities from any other source for the same purposes for which NEA loans are authorized in subparagraph (a) of this section; and to approve or disapprove any other loans to cooperatives as provided for in section 11 of this Act;

(d) To receive from cooperatives all articles of incorporation, amendment, 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 Act, to certify the same, to file them in the records of the NEA, and to maintain a registry of such filing: *Provided*, That the duties specified in this subsection shall be performed by the Administrator under the supervision of the Board of Administrators;

(e) To so cooperate and coordinate the NEA's administration with, to 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 National Power Corporation, as will most effectively conduce to the achievement of the purposes of this Act; and

(f) At least annually, not later than January 31st, to report to the President and the Congress 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 premises 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 achievement of the purposes of this Act; 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 Act.

Section 6. Loans from GSIS, SSS and DBP. The GSIS, SSS and DBP are hereby authorized, empowered and directed to make loans directly to public service entities for the same purposes for which NEA loans are authorized in subparagraph (a) of section five. Any other provision of law to the contrary notwithstanding, such a loan shall be made by any of the foregoing three whenever:

(a) Application for such loan has been made to it on behalf of such entity by the Administrator, accompanied by his determination and certification that (1) sufficient funds for such a loan are not available out of the revolving fund hereinafter established; (2) such loan is necessary to enable the borrower to accomplish the loan purposes established in subparagraph (a) of section five; (3) in his judgment the loan will be repaid with interest on

schedule and 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 to the NEA or any other lending source below than level of such security and ability were such additional borrowing not being undertaken; (4) no lender other than the NEA or if such be the case the lender being applied to, then holds or has the right to secure a first lien on the properties of the borrower to be financed by such loan; and (5) his willingness in relation to the properties to be financed by such loan, (A) to release any after-acquired property clause in any lien the NEA already has on the borrower's properties to, or (B) to share any such lien on a co-equal basis in proportion to their respective loans with, or (C) to subordinate any such lien in favor of, the lender; and

(b) The NEC determines and certifies to the lender: (1) that the funds of such lender, having regard for the amount, term, interest charge, repayment schedule and security of such loan, are sufficient and available for such purpose; (2) that such loan will not impair or unduly deter the achievement of the primary purposes for which the lender has accumulated such funds; (3) the loan term, which shall not exceed thirty-five years; (4) the repayment schedule, which shall not cause payments of principal or interest to come due more often than every quarter; (5) the interest rate, which shall not exceed (A) the lowest interest rate being then received by the lender on loans of ten-or-more-year terms made by the lender during the preceding twelve months (or, if no such loans have been made during the preceding twelve months, on such loans made by the lender during the preceding five years; or, if no such loans have been made during the preceding five years, on the longest-term loan made by the lender during the preceding three years), or (B) six per centum per annum, whichever is the lesser: *Provided*, That if six per centum per annum is lesser, the NEC may, but shall not be required to, fix the interest rate to be not in excess of (i) such higher rate as will result in an average interest rate to the borrower of not in excess of six per centum per annum or (ii) the lowest interest rate determined under (A) above, whichever is the lesser; and (B) the other terms and conditions of the loan;

(c) Such loan, when added to the outstanding principal indebtedness to such lender for any other loans made pursuant to this section, will not aggregate in excess of one hundred million pesos; and

(d) The borrower executes such documents as shall be necessary to effectuate such borrowing and give the lender as security therefor an exclusive or shared first lien on the properties being financed by the loan, and the Administrator executes such instruments as shall be necessary to release to the lender any after-acquired property clause of, or to share with or subordinate in favor of the lender, any such lien the NEA then already has upon such borrower's properties, whichever the NEC shall require.

The beginning schedule of repayment of the principal of such loans, of the interest charges thereon, or both, may be deferred for a period not to exceed seven years from the advance of such principal, upon the Administrator's request and if the NEC certifies to the lender its approval thereof, in which event provision for such deferment shall be incorporated into the loan agreement and interest shall accrue and be payable on any interest payments so deferred.

Advances to the borrower of loans made pursuant to this section, and advances to a cooperative borrower from any other non-NEA source, shall be made directly to the borrower by the lender at such time or times in such amount or amounts as the Administrator approves; and the Administrator, with respect to such loans, advances, application by the borrower of such advances to their purposes, repayments by the borrower of the principal of and interest upon such loans, and all operations of the borrower affecting the loan security and the borrower's conformity with loan

agreements, shall establish and implement the same procedures and requirements affecting the borrower as though such loan had been made by the NEA. Annually, and at any time a borrower's condition indicates that it may default in its loan agreement, or whenever so requested by such a lender or by the NEC, the NEA shall furnish a current and comprehensive report of the status and operations of the borrower relating to its ability to conform with its loan agreement and to its financial and operating conditions in general. To the extent that a loan made pursuant to this section has not been advanced to the borrower within five years after the effective date of the loan agreement, the same shall be rescinded unless the lender and borrower, upon the NEA's approval, agree otherwise, which agreement shall be executed by all three in writing and become a part of the loan agreement.

This section shall not constitute a limitation on the right and ability otherwise lawfully possessed by such a lender to make such loans to such public service entities on terms and conditions more favorable to such entities than herein prescribed.

Section 7. *Revolving Fund.* A revolving fund, out of which the Board of Administrators is hereby authorized, empowered and directed to make loans to public service entities for the purposes set forth in subparagraph (a) of section 5, is hereby established to consist of the following:

(a) Any portion of the twenty-five million pesos heretofore appropriated pursuant to Section 6 of Republic Act 2717 that has not already been loaned or, if loaned, that has not already been advanced and for lawful reason will not be advanced;

(b) The following sums, which are hereby appropriated: twenty million pesos for the fiscal year 1970 and the same amount each year for the next nine fiscal years: *Provided*, That the Congress shall not be limited as to the amount it may further appropriate in any year for this purpose;

(c) Any fund or physical asset which NEC-FS may make available to the NEA for such loan purposes;

(d) Any fund or physical asset which the President, pursuant to Section six of Republic Act Numbered Twenty-seven hundred seventeen, may have already made, or, as he is hereby authorized and empowered so to do, may hereafter make available to the NEA for such loan purposes from any sum or assets received from or out of Japanese reparations including proceeds from the sale thereof or loans obtained under the Japanese Reparations Treaty;

(e) All moneys not already expended which have heretofore been received by the Electrification Administration from payments to it of the principal of and interest upon any loans it has heretofore made pursuant to Republic Act Numbered Twenty-seven hundred seventeen, except to the extent such moneys may have already been allocated to the EA for administrative or other purposes, and all moneys hereafter received by the NEA from payments to it of the principal of and interest upon any loans heretofore made under Republic Act Numbered Twenty-seven hundred seventeen or hereafter made under this Act;

(f) The sum of two million dollars worth of goods and services from Japanese Reparations for the fourteenth year schedule and the same amount each year for the next four year schedules, which are hereby allocated to the revolving fund of the NEA;

(g) The sum of two million pesos for the fiscal year 1970 and the same amount each year for the next four fiscal years, which are hereby allocated to the revolving fund of the NEA out of the proceeds of the sale of Japanese Reparations Goods; and

(h) The proceeds corresponding to the share of the National Government in all franchise taxes paid by electric service entities, which are hereby appropriated for the purpose of augmenting the revolving fund.

No portion of the revolving fund shall, without the prior approval of the Congress, be expended by the NEA for any purpose other than the loans herein and in section nine authorized and the acquisition authorized in section eleven. The Board of Administrators shall annually, not later than January thirty-first, report to the Congress and the President the current status and amount of the revolving fund and the anticipated status and amount thereof in the ensuing year.

Section 8. *Loan Standards.* In making a loan authorized in section 7, the Board of Administrators is hereby authorized, empowered and directed:

(a) Before making such loans, 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 loan to the borrower on the schedule contemplated by the loan agreement, subject only to the borrower's compliance with the loan agreement; and (3) in the NEA's judgment the 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 of not in excess of thirty-five years and, unless the borrower requests a shorter term, of not less than twenty-five years;

(c) To impose upon the loan principal an interest charge to be fixed by the NEA at not in excess of three per centum per annum;

(d) To fix the schedule for repayment of the principal of and the interest upon such loan in installments recurring not more often 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 changed 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 Act will be complied with.

Notwithstanding the foregoing provisions of this section, the Board of Administrators may fix any higher interest rate or any shorter or longer term for loans made from funds or physical assets made available from sources stated in subparagraphs (c) and (d) of section 7, but only if and not to exceed the extent to which such is required by, or otherwise is made a condition of the availability of such funds or assets from, such sources: *Provided*, That the Board of Administrators may, unless the conditions attaching to the availability of such funds require otherwise, combine such funds with the other funds in the revolving fund and fix a blended interest charge on loans made generally therefrom at not in excess of the rate which will assure repayment to the revolving fund of interest at three per centum per annum on that portion of funds not derived from such sources and of such

higher interest per centum per annum as is required on that portion of funds that is derived from such sources.

Section 9. *Loans for Electric-Related Purposes.* The Board of Administrators is hereby authorized, empowered and directed to make loans, out of the revolving fund, for the purpose of financing the wiring of premises of persons served or to be served as a result of loans made under Section 7, and for the acquisition and installation by such persons of electrically-powered appliances, equipment, fixtures and machinery of all kinds for commercial, agricultural and industrial uses. Such loans may be made directly (a) to public service entities which have received loans under section 7, which entities shall relend such funds to persons served or to be served by them, or (b) to any person served or to be served by such an entity. Such loans shall be made for such terms, shall bear interest at such rate not to exceed six per centum per annum, and shall be subject to such other terms and conditions as the Board of Administrators shall determine to be necessary and appropriate to assure repayment thereof within the time agreed: *Provided, however,* That at no time shall the total of loans made for the purposes stated under this section exceed ten per centum of the total of the revolving fund nor shall any such loan to any borrower exceed ten per centum of the total loan to such borrower from the revolving fund.

Section 10. *Authority to Extend Loans and Release or Subordinate Securities.* Whenever in its judgment such is necessary or desirable to achieve the purposes of this Act, 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 Act, 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 re-schedule payments of principal or interest, or both, or when none of the foregoing is sufficient, to compromise and amount owing by a borrower to the NEA subject to provisions 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 an 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 for the purposes for which loans are authorized under this Act.

Section 11. *Enforcement Powers.* If any public service entity which has borrowed funds from the NEA, or from any other lender through the services of the NEA as its agent, 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 a loan agreement or of any rule or regulation promulgated by the NEA in administering the provisions of this Act, 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, secure as agent, or give any 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) operate or lease such properties for such period, not exceeding five years, and in such manner as may be deemed necessary or advisable to protect the investment therein, including the improvement, maintenance and rehabilitation of foreclosed systems, but the NEA shall, within five years after acquiring such properties, 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 Act; or

(e) Take any other remedial measure for which the loan agreement 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 Public Service Commission) 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 under the provisions of this Act 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 Administrators' 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 12. Staff. To enable the NEA to implement more effectively the provisions of this Act, the Board of Administrators shall have and provide for a technical staff and such other staffs or personnel as it may deem proper. The Administrator shall appoint the personnel of the NEA, subject to the approval of the Board of Administrators and the requirements of existing law. He shall, furthermore, have control and supervision over them.

Section 13. 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 5(e).

Section 14. Administrative Expenses. The NEA's administrative expenses shall be appropriated annually by the Congress.

Section 15. 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 association or corporation 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 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, or 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 nor more than five thousand 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 his 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 every 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) (1) Any officer or employee of the NEA who violates, or causes or permits another person to violate, and (2) any other person who violates or aids or abets the violation of, any provision of this Act not specifically punishable in the preceding subsections shall be punished by a fine not exceeding two thousand pesos, or imprisonment not exceeding one year, or both.

Section 16. 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 all transactions subject to the

authority and jurisdiction of the NEA involving more than five hundred thousand 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 Chairman of the NEC or a representative designated by him, the Chairman of the Presidential Economic Staff or a representative designated by him, a representative of electric cooperatives to be chosen by a national association of electric cooperatives, and a representative of the Philippine Electric Plant Owners Association to be designated by its board. The council shall meet at least once a month and shall adopt an integrated plan of electrification and power development, coordinate the activities and operations of all sectors involved in electrification, conduct relevant studies and researches, 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 Act.

CHAPTER III ELECTRIC COOPERATIVES

Section 17. *Organization and Purpose.* Cooperative non-stock, non-profit membership corporations may be organized, and electric cooperative corporations heretofore formed or registered under the Philippines Non-Agricultural Co-operative Act may as hereinafter provided be converted, under this Act 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 18. *Powers.* A cooperative is hereby vested with all power necessary or convenient for the accomplishment of its corporate purpose and capable of being delegated by the Congress; 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 the 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 Act, and that such borrowing and/or encumbering will not diminish the security of, or of the ability of the cooperative to repay, and 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 bearing on 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 Act; 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 19. *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 Act shall be distinct from the name of any other cooperative already organized or converted under this Act. The foregoing requirement shall not apply to any cooperative which becomes subject to this Act by complying with the provisions of section 34.

Section 20. *Incorporators.* Five or more persons, including cooperatives, may organize a cooperative in the manner hereinafter provided.

Section 21. *Articles of Incorporation.* The articles of incorporation of a cooperative shall recite that they are executed pursuant to this Act 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 Act 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 22. *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 provisions for the regulation and management of the affairs of the cooperative not inconsistent with its articles of incorporation or this Act.

Section 23. *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 in respect of membership.

The provisions 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 24. *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 Act 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 a special meeting, 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 meeting. 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 on 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 25. Waiver of Notice. Any person entitled to notice of a meeting may waive such notice in writing either before or after such meeting. If any such person shall attend such meeting, such attendance shall constitute a waiver of notice of such meeting, unless such person participates herein solely to object to the transaction of any business because the meeting has not been legally called or convened.

Section 26. 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 Act, 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 or, 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 Act. 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 Act or by its articles of incorporation or by-laws.

Section 27. *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 28. *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, agents, 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 29. *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 30. 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 thereof 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 Act 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 and annex thereto an affidavit stating that the provisions of this section in respect of the amendment set forth in such articles were duly complied with.

Section 30. *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 36.

Section 31. *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 votes cast thereon by each consolidating cooperative 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 Act 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 Act 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 in respect of such articles were duly complied with by such cooperative.

Section 32. Merger. Any one or more cooperatives (each of which is hereinafter designated a "merging cooperative") may merge into another cooperative (hereinafter designated the "surviving cooperative") 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 which 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 Act 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 cooperatives and may contain any other provisions not inconsistent with this Act that are deemed necessary or advisable for the conduct of the business of the surviving cooperative. The president or vice-president of each cooperative executing such articles of merger shall make and annex thereto an affidavit stating that the provisions of this section in respect of such articles were duly complied with by such cooperative.

Section 33. Effect of Consolidation or Merger. (a) In the case of a consolidation, the existence of the consolidating cooperative shall cease and the articles of consolidation shall be deemed to be the articles of incorporation of the new cooperative; and in the case of a 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 the 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 the 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 consolidating or merging cooperatives may be prosecuted as if 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 34. *Conversion of Existing Corporations.* Any corporation heretofore organized or registered under the Philippines Non-Agricultural Co-operative Act and supplying or having the corporate power to supply electric energy may convert itself into a cooperative under this Act by complying with the following requirements, and shall thereupon become subject to this Act 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 Act and shall state: (1) the name of the corporation and the address of its principal office prior to its conversion into a cooperative; (2) a statement that such corporation elects to become a cooperative, non-profit, membership corporation subject to this Act; (3) its name as a cooperative; (4) the address of the principal office of the cooperative; (5) the names and addresses 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 Act 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 of such articles. The articles of conversion shall be deemed to be the articles of incorporation of the cooperative.

Section 35. *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 meeting, 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. Upon such approval, a certificate of election to dissolve (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 36, 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 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 and discharge its debts, obligations and liabilities, other than those to 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 Act 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 and annex thereto an affidavit stating that the statements made therein are true.

Section 36. *Filing of Articles and Certificates.* Articles of incorporation, 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 Act, 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 Act, 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 37. *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 difference 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 assure compliance with this section. No bona fide applicant for membership or 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 38. *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, on 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 wherever 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 its 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 the members of the cooperative and (2) consented to by the NEA and any other lending source which then holds a lien on any of the cooperative's properties.

Section 39. *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 execution therefor.

Section 40. *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, on any real property after the expiration of a period of five years of continuous maintenance of such lines or related equipment facilities or machinery.

Section 41. *Assistance to Cooperatives; Exemption from Taxes, Imposts, Duties, Fees; Assistance from the National Power Corporation; Protection of Franchise.* Pursuant to the national policy declared in section 2, the Congress hereby finds and declares that the following assistance to cooperatives is necessary and appropriate:

(a) Provided that it operates in conformity with the purposes and provisions of this Act, a cooperative (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 first occurs, shall be exempt from the payment (A) of all National Government, local government and municipal taxes and fees, including any 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 31, 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 Act: *Provided*, That the Board of Administrators shall, after consultation with the Bureau of Internal Revenue, promulgate rules and regulations provided for in this Act.

(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 franchise to a cooperative.

(c) No franchise for service shall be granted to any other person within any area or portion for which a cooperative holds a franchise unless and except to the extent that (1) the cooperative's board consents thereto by resolution duly adopted or (2) the Public Service Commission determines that the cooperative is unable within a reasonable time, or is unwilling, to supply service therein in accordance with the provisions of section 37.

Section 42. *Regulation by the Public Service Commission and Securities and Exchange Commission.* Pursuant to the national policy declaration in section 2, the Congress hereby establishes that:

(a) To the extent that the Public Service Commission now is or may hereafter be authorized and empowered to do so with respect to other electric public services, the Commission is hereby authorized and empowered:

(1) To grant, condition, restrict or cancel a cooperative's franchise, or to determine whether a cooperative is qualified to receive a franchise;

(2) To require a cooperative to extend or improve service upon the Commission's determination that such should be done in furtherance of the public convenience and necessity and that such may reasonably be done consistently with the purposes and provisions of this Act;

(3) To require a cooperative to cease any discriminatory practice which the Commission finds to be in effect in violation of section 37; and, in connection with such authority, to require a cooperative to file with the Commission for information purposes, and to make accessible to any person upon request therefor, copies of all rates, charges, contract forms, fee or deposit schedules, by-laws, rules and regulations; and

(4) To require a cooperative to interconnect its facilities with, and through such interconnection to sell or exchange electric energy to or with, other electric public services or the National Power Corporation if the National Power Corporation so requests or consents thereto:

Other than an order to require information filings, as provided in (3) of this subsection, the Commission shall issue no order in the exercise of the foregoing powers without affording the cooperative and any other interested person who requests it an opportunity to be heard. Except as provided in this subsection, a cooperative shall be exempt from regulation or control by the Public Service Commission.

(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 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 TRANSITORY PROVISIONS

Section 43. *The Electrification Administration.* Republic Act Numbered Twenty seven hundred seventeen is hereby repealed and the Electrification Administration created under it is hereby dissolved in the manner hereinafter provided:

(a) The incumbent Administrator and Two Deputy Administrators of the Electrification Administration shall continue to serve the balance of the unserved portion of their respective terms of office;

(b) Any reference to the Electrification Administration in any existing law or in any executive order, administrative order or proclamation of the President shall, with respect to any duty or function assumed by the NEA created in this Act, be deemed hereafter to have reference to the NEA;

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

(d) The personnel of the Electrification Administration who are occupying civil service positions shall be absorbed and transferred to the latter without demotion in rank nor reduction in salary: *Provided*, That those employees who shall be separated from the service and those not absorbed by the NEA shall be given by the said office at least one month gratuity for every year of service and, or other benefits in accordance with existing laws and regulations chargeable to the corresponding fund and, or any available fund under paragraph (a), section seven of this Act; and

(e) All on-going projects and/or approved loans under the Electrification Administration shall be reviewed 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: *Provided*, That steps shall be taken to place them on an area coverage basis.

Section 44. *Separability of Provisions.* If any provisions of this Act, or the application of such provision to any person or circumstance, is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 45. *Effect on Other Acts.* All Acts or parts of Acts inconsistent herewith are repealed or modified accordingly.

Section 46. *Effectivity.* This Act shall take effect upon its approval.

Approved: July 28, 1969.