



**NATIONAL ELECTRIFICATION ADMINISTRATION**  
"The 1<sup>st</sup> Performance Governance System-Institutionalized National Government Agency"  
57 NIA Road, Government Center, Diliman, Quezon City 1100

14 January 2014

**MEMORANDUM No. 2014-001** \_\_\_\_\_

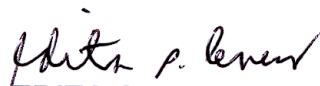
**TO :** ALL ELECTRIC COOPERATIVES

**SUBJECT :** Guidelines for the Classification of ECs and Provision for NEA Intervention

Pursuant to Republic Act No. 10531, otherwise known as the National Electrification Reform Act of 2013, the Guidelines for the Classification of ECs and Provision for NEA Intervention is issued to implement provision of the Act and its accompanying Implementing Rules and Regulations (IRR).

The guidelines was published for national circulation in Philippine Star on January 7, 2014 and will take effect on January 23, 2014.

For your guidance and compliance.

  
**EDITA S. BUENO**  
Administrator

NATIONAL ELECTRIFICATION ADMINISTRATION  
Office of the Administrator



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## **GUIDELINES FOR THE CLASSIFICATION OF ECs AND PROVISION FOR NEA INTERVENTION**

### **I. RATIONALE**

Republic Act (RA) No. 10531 mandates the National Electrification Administration (NEA) to strengthen the electric cooperatives, help them become economically viable and prepare them for the implementation of retail competition and open access. Towards this end, NEA lays down parameters geared towards the preclusion of an EC from being declared as "Ailing" wherein NEA shall exercise step-in-rights.

Specifically, Rule IV, Section 19 (b) of the IRR of RA 10531 provides that the NEA shall develop financial and operational parameters to serve as triggers for intervention of the NEA in the EC operations at least one (1) year prior to being categorized as ailing EC: Provided, that the obligations as set forth in paragraphs (a) and (b) of this section, shall be developed within sixty (60) days from the issuance of the IRR and shall be approved by the DOE: Provided further, That subsequent amendments thereto shall likewise be approved by the DOE.

Likewise, Rule IV, Section 20 of the IRR of RA 10531 provides that the NEA shall, within sixty (60) days from the effectivity of the IRR, submit a set of standards to determine the classification of the ECs guided by the parameters of the IRR: Provided, that the NEA shall classify the ECs based on the standards mentioned in the preceding sentence: Provided further, that the classification shall serve as the baseline and/or benchmark of the particular EC.

### **II. BACKGROUND**

NEA assessment shows that some ECs are confronted with a range of challenges such as mounting liabilities arising from poor governance, low collection efficiency, high system loss, and/or unresponsive rate methodology. Early detection of these problems is necessary to ensure continuous delivery of efficient and reliable service to member-consumers without threat of power supply disconnection. Pursuant to RA 10531, NEA hereby formulates parameters to ensure the ECs' operational efficiency and financial viability through the provision of appropriate intervention.

### **III. OBJECTIVES**

1. To formulate and prescribe standards for the classification of ECs according to financial, technical and institutional performance.
2. To ensure early detection of adverse financial condition and to serve as triggers for NEA intervention in the EC operation.
3. To institute preventive, remedial and mitigating measures prior to being categorized as ailing EC.
4. To implement alternative options for the ailing ECs.

### **IV. POLICY STATEMENT**

It shall be the policy of NEA to prescribe a mechanism for the assessment of the performance of ECs, to provide financial, institutional and technical assistance if necessary, to institute preventive and remedial measures, and to exercise step-in rights when circumstances warrant.

## V. PARAMETERS

The parameters and standards to be used in the assessment of the EC financial condition and operational performance are as follows:

Parameters	Standards
1. Cash General Fund	At least one (1) month power cost and non- power cost
2. Collection Efficiency	95%
3. Accounts Payable-Power	Current/Restructured-Current
4. Profitability	Positive
5. Networth	Positive
6. System Loss	13%

## VI. CLASSIFICATION OF ECs

1. **Green** - ECs which meet and comply with all the standards set forth in the preceding table, thus needing less NEA intervention.
2. **Yellow** – ECs which do not comply with any of the above parameters and shall fall under the "watchlist" group.

An EC which falls under the parameters enumerated under any of the circumstances as provided in Section 20 of the IRR of RA 10531 and which has not been declared as "Ailing EC" by the NEA shall fall under the Yellow classification, namely:

- a. Has negative networth for the last three (3) years. For this purpose, "*Negative Net Worth*" shall mean as the financial condition of an EC in which its liabilities are greater than its assets;
  - b. Has accumulated ninety (90) days arrearages in power supply purchases from generating companies and power suppliers/sources of electricity, and the transmission charges by the TransCo or its Concessionaire;
  - c. Unable to provide electric service due to technical and/or financial inefficiencies including, but not limited to, high systems loss, low collection efficiency, below standard current ratio, operating loss, huge liabilities and/or institutional problems such as governance, and non-adherence to NEA and EC policies;
  - d. Unable to efficiently perform its electric distribution utility obligations or continue in business due to organizational, external and internal factors;
  - e. When an EC has failed to meet other operational standards established by NEA; and
  - f. Unable to set up or continuously support its Wholesale Electricity Spot Market prudential requirements.
3. **Red** – ECs which have been declared and classified by the NEA as "Ailing ECs" after observance of due process under the policy to be issued for the purpose.



## VII. NEA INTERVENTIONS

### A. Green ECs

1. Monitor and assess the EC operation based on quarterly reports and historical and projected cash flow template.
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### B. Yellow ECs - NEA, upon its determination, shall exercise any or a combination of the following actions:

1. Monitor and assess the EC operation based on quarterly reports and historical and projected cash flow template
2. Provide financial, institutional and technical (FIT) assistance
3. Conduct roundtable assessment
4. Conduct special audit/examination on EC operation
5. Monitor the implementation of the EC Operation Improvement Plan (OIP) as supported with Performance Commitment Contract
6. May designate an AGM and /or PS when the interest of the EC so requires pursuant to PD 269, as amended by PD 1645 and RA 10531

### C. Red ECs - NEA, upon its determination, shall exercise any or a combination of the following actions:

1. Strictly monitor the EC operation based on monthly reports and historical and projected cash flow template.
2. Appoint or assign a PS or AGM or assign third persons to the Board until the NEA decides that the election of a new Board of Directors to lead or manage the EC is necessary. The NEA may also create a management team for the purpose.
3. May enter into partnership with a qualified private sector investor, under any of the following frameworks: a. Joint Venture; b. Investment Management Contract; c. Management Contract; d. Operations and Maintenance Contract; e. Special Equipment and Materials Lease Agreement; f. Concession; g. Merger; h. Consolidation; and i. Other variants deemed applicable to the EC.
4. If within a reasonable period, not exceeding 180 days from its takeover, the NEA determines that such EC is unable to continue its operation in the ordinary course of business, it may: a. Institute structural reforms such as conversion of the ailing EC to either a Stock Cooperative registered with the CDA or a Stock Corporation registered with the SEC; or b. Institute appropriate legal actions such as Extrajudicial Foreclosure and Insolvency (Voluntary/Involuntary) and Bankruptcy proceedings, without prejudice to the right of the creditors.

## VIII. GUIDELINES

1. The ECs are responsible for the submission of Monthly Financial and Statistical Report (MFSR), Monthly Engineering Report (MER), and other relevant reports within the prescribed period.
2. The NEA shall create a composite group which shall undertake review, assessment and validation of the ECs' operating performance based on established parameters and using the 5-year historical performance as well as the 10-year monthly projections using the cash flow template. The appropriate intervention/s shall be recommended according to EC classification.
3. The result of assessment shall be forwarded to the Administrator for approval of the recommended intervention/s in order to avert threat of power supply disconnection.
4. If the operational and financial conditions of the EC further deteriorate in such a way that the EC falls under the circumstances set forth in Section 20 of the IRR of RA 10531 but before its declaration as an Ailing EC, the EC may be afforded a recovery period of not more than one (1) year to undertake remedial or mitigating measures to alleviate its adverse operational and financial difficulties such as, but not limited to the formulation of a doable OIP to be submitted to the NEA for approval.
5. The OIP shall include any one (1) or more of the following:
  - a. Debt Repayment Plan
  - b. Capital Expenditures Plan
  - c. Operating Expenditures Plan
  - d. System Loss Reduction Program
  - e. Collection Efficiency Improvement Program
  - f. Manpower Reorganization Plan
6. If within a reasonable period, not exceeding one hundred eighty (180) days from the implementation of the OIP, there is no concrete or significant improvement in the EC's operational and/or financial conditions, the OIP shall be set aside and become wholly inoperative thus, the NEA shall thereupon declare the EC as an "Ailing EC".
7. Any or all of the interventions enumerated for Red ECs under these Guidelines may be taken for those ECs previously and currently identified as "Ailing" and which the NEA had already taken early interventions.
8. The NEA may designate an AGM and /or PS when the interest of the EC and the program so requires pursuant to PD 269, as amended by PD 1645 and RA 10531.
9. In cases of fortuitous events, force majeure, and/or natural or man-made calamities, the NEA may implement any of the abovementioned interventions.
10. The NEA shall enforce performance standards and submit quarterly compliance report to the Department of Energy (DOE) and Joint Congressional Power Commission (JCPC) which shall include summary of compliance to the established parameters and recommendation for rehabilitation or takeover.

**IX. - RESPONSIBILITY**

The NEA shall be responsible in the implementation of this policy and submission of required reports to the DOE and JCPC.

**X. EFFECTIVITY**

These implementing guidelines shall immediately take effect fifteen (15) days following the publication in a newspaper of general circulation. Let three (3) copies hereof be filed with the University of the Philippines (UP) Law Center pursuant to President Memorandum Circular No. 11, dated 09 October 1992.

*Edita S. Bueno*  
**EDITA S. BUENO**  
Administrator

NATIONAL ELECTRIFICATION  
ADMINISTRATION

IN REPLYING, PLS. CITE: HOR023681



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*12-20-13*

- Approved by the NEA Board of Administrators on November 6, 2013
- Approved by the Department of Energy (DOE) per transmittal dated December 12, 2013.