



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

05 December 2014

MEMORANDUM No. 2014-026

TO : ALL ELECTRIC COOPERATIVES (ECs)

SUBJECT : GUIDELINES IN THE CONDUCT OF REFERENDUM FOR ELECTRIC COOPERATIVE CONVERSION

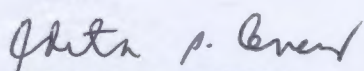
Please be informed that the NEA Board of Administrators during its meeting on October 28, 2014 passed Board Resolution No. 204 approving the Guidelines in the Conduct of Referendum for Electric Cooperative Conversion.

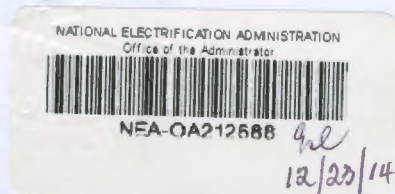
This is in pursuant to Section 25-A of the Implementing Rules and Regulations (IRR) of R.A. 10531, which mandates all remaining Electric Cooperatives that are non-stock to conduct referendum whether one should:

Remain as non-stock, non-profit EC under the NEA;
Convert into stock cooperative under CDA; or
Convert into stock corporation under SEC.

Said guidelines was published in *The Philippine Star* on December 5, 2014 and shall take effect fifteen (15) days thereafter.

As such, all Electric Cooperatives are hereby enjoined to comply with said guidelines together with the mandated activities before and after the conduct of referendum.


EDITA S. BUENO
Administrator





GUIDELINES IN THE CONDUCT OF REFERENDUM FOR ELECTRIC COOPERATIVE CONVERSION

ARTICLE I – GENERAL PROVISIONS

SECTION 1. TITLE. These Guidelines shall be known as the "Guidelines in the Conduct of Referendum for EC Conversion".

SECTION 2. LEGAL BASIS. These Guidelines shall facilitate the conduct of referendum in electric cooperatives (ECs), pursuant to Section 25-A of the Implementing Rules and Regulations (IRR) of R.A. 10531.

SECTION 3. DEFINITION OF TERMS. The following shall be construed to have the following meaning as used in these Guidelines, unless a different meaning clearly appears in the context:

- 1) *Bona fide member-consumer* refers to a member-consumer in good standing as defined in Article II, Section 7.5 of R.A. 10531, with voting rights under the "one member-one vote" policy.
- 2) *Conversion* refers to a change in the corporate structure of an electric cooperative, from a non-stock, non-profit to either a stock cooperative or a stock corporation.
- 3) *Cooperative Development Authority (CDA)* refers to the entity created by Republic Act No. 6939, as amended.
- 4) *District* refers to a town/municipality, or to a city, or to a portion thereof, or a group of towns/municipalities contiguously located within the coverage area of an electric cooperative, as defined in its by-laws.
- 5) *District Meeting* refers to the gathering of bona fide member-consumers from a particular district, and held within the geographical confines of such district.
- 6) *Department of Energy (DOE)* refers to the executive department of the Philippine Government created by Republic

Act 7638 otherwise known as the Department of Energy Act of 1992.

- 7) *Electric Cooperative (EC)* refers to an electric distribution utility organized as mandated by Presidential Decree No. 269, as amended.
- 8) *Implementing Rules and Regulations (IRR)* refers to DOE Department Circular (DC) No. 2013-07-0015, as amended by DC No. 2014-01-002.
- 9) *National Electrification Administration (NEA)* is the agency created under Presidential Decree No. 269, as amended.
- 10) *Philippine Rural Electric Cooperative Association, Inc. (PHILRECA)* is the national association of ECs operating as non-stock, non-profit cooperative registered under the NEA.
- 11) *Philippine Federation of Electric Cooperatives (PHILFECO)* is the national federation of stock electric cooperatives registered with the CDA.
- 12) *Referendum* is the electoral process where member-consumers register their votes, through secret balloting, on the conversion options under R.A. 10531 and its IRR.
- 13) *Referendum Committee* refers to a body constituted by the EC to supervise the referendum.
- 14) *Secret Balloting* refers to the system of voting where bona fide member-consumers express their option in private, and written on the prescribed ballot.
- 15) *Securities and Exchange Commission (SEC)* refers to the agency of the Philippine Government that regulates the securities industry, and is created by Batas Pambansa Blg. 69, otherwise known as the Corporation Code of the Philippines.
- 16) *Stock Cooperative* is an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social,

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economic and cultural needs and aspirations by making equitable contribution to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally-accepted principles as defined under Article 3, Chapter I of Republic Act No. 9520, otherwise known as the Philippine Cooperative Code of 2008.

17) *Stock Corporation* is an artificial being created by operation of law, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence as defined in Section 2 of Batas Pambansa Bilang 68.

ARTICLE II – CONVERSION OPTIONS

SECTION 4. CONVERSION OPTIONS. Section 25-A of the IRR of R.A. 10531 mandates that all remaining non-stock ECs conduct a referendum to determine whether it should:

- Remain as non-stock, non-profit EC under the NEA;
- Convert into stock cooperative under the CDA; or
- Convert into stock corporation under the SEC.

ARTICLE III – REFERENDUM ACTIVITIES

SECTION 5. SCHEDULE OF REFERENDUM. The Board of Directors shall pass a Board Resolution stating therein the date of referendum and all related activities in the conduct of referendum on or before 15 January 2016. The Institutional Services Department (ISD) and other concerned departments shall prepare the requirements as provided for in the Board Resolution.

SECTION 6. CONDUCT OF CONSULTATIONS. Prior to the referendum, the EC Board and Management shall undertake, in coordination with the DOE, NEA, CDA, SEC, PHILRECA, PHILFECO, a massive Information-Education and Communication (IEC) campaign at the district level within the EC coverage area on the importance of R.A. 10531 and the IRR, the options for conversion, advantages and disadvantages, and

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other related matters through a series of District Meetings which may be held:

- simultaneously, holding meetings on the same day at various venues (barangays); or
- sequentially, holding meetings one after the other in different days and in different venues (barangays).

Posting of notice for District Meetings shall be not less than ten (10) days before the scheduled consultation, through print and broadcast media, and shall be posted in strategic places within the district stating the complete information on the said meeting.

ARTICLE IV – MEMBER-CONSUMERS

SECTION 7. MASTERLIST OF MEMBER-CONSUMERS. It shall be the responsibility of the ISD to prepare the masterlist of member-consumers at least twenty five (25) days prior to the referendum. The masterlist shall contain the names of all member-consumers in alphabetical order and classified according to districts, municipalities, cities and barangays to facilitate registration and voting. The masterlist shall be verified by the ISD or his/her equivalent and certified by the Board Secretary or his/her duly authorized representative. Initial posting in the different precincts shall be at least twenty (20) days before the referendum.

To ensure the accuracy of the masterlist, at least five (5) copies shall be posted in conspicuous places for verification of the member-consumers. Verification period shall not be more than twenty (20) days nor less than ten (10) days before referendum. Any queries to the list shall be filed in writing with the ISD, which query/ies shall be evaluated based on submitted documents.

The final masterlist shall be posted not less than five (5) days before referendum. Copies shall also be distributed in the voting district and to the different precincts. Any interested party may request in writing for a copy two (2) days prior to referendum and shall be given a copy only upon payment of the cost of reproduction which shall not be less than P1.00 per page.

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SECTION 8. CUT-OFF DATE. Only member-consumers whose application for membership had been approved by the Board not later than ninety (90) days before the scheduled referendum shall be included in the masterlist of member-consumers and shall have the right to vote.

SECTION 9. QUALIFIED VOTERS. All persons whose names are included in the masterlist of member-consumers are qualified to register and vote in the designated precincts, upon presentation of at least one (1) valid identification card (ID). If, for any reason, a member-consumer has been inadvertently excluded from the masterlist, such may still register and cast a vote by presenting to the Precinct Referendum Committee the latest monthly electric bill and at least one (1) valid ID.

Only one (1) vote shall be allowed for a member-consumer who is a natural person, whether in a single or joint membership, or with multiple connections, and a juridical person through its representative.

A juridical person shall be represented by its head of office to register and vote upon presentation of a valid ID. In the absence of the head of office, the official representative must submit to the Precinct Referendum Committee an original copy of his/her duly notarized authorization and present at least one (1) valid ID.

No proxy voting shall be allowed.

ARTICLE V – REFERENDUM COMMITTEES

SECTION 10. REFERENDUM COMMITTEES. At least twenty (20) days before the referendum, the EC Board of Directors shall appoint referendum committees from among nominees endorsed by the ISD.

The Referendum Committees shall be assigned specific tasks as determined by the EC, with the following composition:

- 1) Overall Referendum Committee – not less than three (3) but not more than five (5) members to elect from among themselves a Chairperson, Secretary and Member. Alternate members may be designated for vacancies, if any.

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- 2) District Referendum Committee – not less than three (3) but not more than five (5) members to elect from among themselves a Chairperson, Secretary and Member. Alternate members may be designated for vacancies, if any.
- 3) Precinct Referendum Committee – not less than three (3) but not more than five (5) members to elect from among themselves a Chairperson, Secretary and Member.

There shall only be one District Referendum Committee and one Precinct Referendum Committee for every district.

SECTION 11. TERM OF DUTY. The term of duty of all Referendum Committees shall commence and expire one (1) day before and after the date of the referendum.

SECTION 12. COMPENSATION. All Referendum Committees shall receive per diem, the amount of which shall be determined and approved by the EC Board of Directors.

ARTICLE VI – FUNCTIONS AND RESPONSIBILITIES

SECTION 13. OVERALL REFERENDUM COMMITTEE. To ensure the proper implementation of these Guidelines the functions and responsibilities of the Overall Referendum Committee are the following:

- 1) Exercise supervision and control over all Referendum Committees constituted hereunder;
- 2) Determine the referendum voting centers and precincts in consultation with the ISD;
- 3) Distribute all referendum materials and paraphernalia;
- 4) Determine the place where the final canvassing and consolidation of referendum returns from all districts shall be held;
- 5) Decide on all protests during the conduct of the overall canvassing;

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- 6) Act as Overall Board of Canvassers during the overall canvassing;
- 7) Proclaim the overall results of the referendum;
- 8) Accomplish and submit relevant referendum forms;
- 9) Perform such other duties as may be deemed necessary in order to carry out their functions and ensure an orderly conduct of referendum.

SECTION 14. DISTRICT REFERENDUM COMMITTEE. The functions and responsibilities of the District Referendum Committee are the following:

- 1) Assist the Overall Referendum Committee in the supervision and control of all referendum committees;
- 2) Distribute all referendum materials and paraphernalia to the Precinct Referendum Committee;
- 3) Decide on protests during the conduct of district canvassing;
- 4) Act as the District Board of Canvassers during the district canvassing;
- 5) Proclaim the results of the votes in the district;
- 6) Accomplish and submit relevant referendum forms;
- 7) Perform such other duties as may be deemed necessary in order to carry out their functions and ensure an orderly conduct of referendum.

SECTION 15. PRECINCT REFERENDUM COMMITTEE. Functions and responsibilities of the Precinct Referendum Committee:

- 1) Exercise general supervision and control in the assigned referendum precinct;

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- 2) Handle verification, registration, voting and counting of votes in the assigned referendum precinct;
- 3) Decide on all the matters arising during the registration and voting of member-consumers;
- 4) Accomplish and submit relevant referendum forms;
- 5) Perform such other duties as may be deemed necessary in order to carry out their functions and ensure an orderly conduct of referendum.

ARTICLE VII – MATERIALS AND PRECINCTS

SECTION 16. OFFICIAL BALLOT. The EC shall cause the printing of the official ballot. It shall be uniform in size and color, and shall consist of two portions. The bigger portion of the ballot shall contain the options with corresponding space for the member-consumers to mark, while the smaller portion which is also referred to as the stub shall provide for a space for the member-consumers to affix their right thumb mark. Both portions of the ballot shall contain identical serial numbers in consecutive order. Upon casting of the vote, the two portions of the ballot shall be separated and dropped in designated slots of the ballot box.

SECTION 17. REFERENDUM MATERIALS. The ISD shall prepare and furnish the Referendum Committees all the materials and paraphernalia necessary for the referendum such as the sanitized masterlist of member-consumers, official ballots, ballot boxes, tally boards, all to be distributed in every precinct on the day of the referendum. The said materials shall be under the custody of the Precinct Referendum Committee.

ARTICLE VIII – CASTING OF VOTES

SECTION 18. VOTING HOURS. Registration and casting of votes shall promptly start at 8:00 am and end at 3:00 pm. Except when member-consumers with the intention to register and cast their votes are within a thirty (30) meter radius from the referendum precinct at closing time, they shall be allowed to register and cast their votes.

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SECTION 19. PRELIMINARIES TO VOTING.

- 1) On the day of referendum, the Precinct Referendum Committee shall convene at the designated precinct with the appropriate materials and paraphernalia to be used during the referendum.
- 2) The Precinct Referendum Chairman shall announce the start of voting, open the ballot boxes and empty all the compartments. After exhibiting the emptiness to the public, the ballot boxes shall then be locked.
- 3) The ballot boxes shall remain locked until the end of voting and counting of votes. If there should arise a need to make room for more ballots, the Precinct Referendum Chairman shall open the ballot box in the presence of the other members of the Precinct Referendum Committee, press the ballots with his/her hands without removing any ballot, and lock the ballot box again.

SECTION 20. PERSONS ALLOWED INSIDE THE REFERENDUM PRECINCT.

Only the members of the Precinct Referendum Committee and the voters are allowed inside the referendum precinct. The Precinct Referendum Committee shall limit the number of member-consumers inside the precinct to prevent crowding.

SECTION 21. ORDER OF VOTING. Upon registration and after establishing the identity of the member-consumer, the Precinct Referendum Chairman shall then issue an official ballot and fold it before handing it over for the member-consumer to accomplish.

SECTION 22. MANNER OF ACCOMPLISHING THE OFFICIAL BALLOT. The member-consumer upon receipt of the official ballot shall proceed to the seat provided for to accomplish the official ballot and mark the referendum option of choice. It is prohibited to display the choice indicated by the member-consumer, to compare and to speak to anyone while accomplishing the ballot.

SECTION 23. PREPARATION OF BALLOTS FOR THE ILLITERATE AND PERSONS WITH DISABILITY. A qualified voter (either a person with disability or illiterate) who is physically unable to fill up the official ballot may be assisted by an accompanying relative within the 4th

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degree of consanguinity and affinity, or any member of the Precinct Referendum Committee.

SECTION 24. SPOILED BALLOT. A voter who accidentally spoils or defaces the official ballot in such a way that it cannot lawfully be used shall surrender the ballot to the Precinct Referendum Chairperson who shall note it in the corresponding space in the voting record. The voter shall be entitled and be given another ballot to accomplish after the Precinct Referendum Committee shall have entered the serial number of the new ballot in the voting records.

SECTION 25. CASTING OF VOTES. After the voter has filled up the official ballot, it shall be folded in the same manner that the Precinct Referendum Committee has given it. In the presence of all the members of the Precinct Referendum Committee, the member-consumer shall affix his/her right thumb mark in space provided and deliver the ballot folded to the Precinct Referendum Chairman, who shall, in the presence and plain view of the members of the Committee, shall verify the serial number from the voting records where it was previously recorded. Finding everything in order, the Chairman shall detach the stub and hand both the ballot and stub to the member-consumer for depositing in the designated compartments of the ballot box. After which, the member-consumer shall leave the precinct.

SECTION 26. MINUTES OF VOTING AND COUNTING OF VOTES. The Precinct Referendum Committee shall prepare and sign a statement in four (4) copies setting forth the following:

- 1) The time the voting commenced and ended;
- 2) The number of official ballots received;
- 3) The number of official ballots used and left unused;
- 4) The number of member-consumers who cast their votes;
- 5) The time the counting of votes commenced and ended;
- 6) The number of official ballots found in the compartment for valid ballots;

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- 7) The number of excess ballots as compared to the register of votes;
- 8) The number of valid ballots, if any, retrieved from the compartment for the stub;
- 9) The number of ballots read and counted;
- 10) The record of protest, if any, and action taken by the Precinct Referendum Committee.

ARTICLE IX – COUNTING OF VOTES


SECTION 27. COUNTING OF VOTES. As soon as the voting ends, the Precinct Referendum Committee shall count the votes in public and without interruption until fully completed.

SECTION 28. MANNER OF COUNTING. The Precinct Referendum Committee shall take out the ballots from the ballot box and form piles of fifty (50) ballots each to be held together by rubber bands. The Chairperson of the Committee shall take the ballots according to piles and read the contents one by one. The Secretary and the member shall record each vote on the official referendum returns and on the tally board as the votes are read. After all the ballots have been read, the Precinct Referendum Committee shall sum up the totals recorded for each option and the aggregate totals both on the tally board and on the election returns. The Precinct Referendum Committee shall then place the counted ballots in an envelope which shall be closed, sealed and signed by the entire members of the PRC.

SECTION 29. APPRECIATION OF BALLOTS. The Precinct Referendum Committee shall observe the following rules:

- 1) If one of the spaces/boxes is marked with a " / " or an "X", or written with the word "Yes", or is shaded, or appears with such other markings clearly indicating the voter's choice or answer, while the other is left blank, the vote is valid and shall be counted in favor of the option to which the space/box with the marking or written with the word "Yes" is intended for;

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- 2) If both of the spaces/boxes are marked differently or written with different words, the " / " or "Yes", the vote is valid and shall be counted in favor of the option to which the box with the " / " or "Yes" is intended for;
- 3) If one of the spaces/boxes is written with the word "No", while the other is left blank, the vote is valid and shall be counted in favor of the option to which the space/box left blank is intended for;
- 4) If both of the spaces/boxes are filled with similar markings or words, the ballot shall be deemed invalid;
- 5) The accidental tearing or perforation of an official ballot shall not invalidate it, provided the answer can be legibly read;
- 6) Failure to remove the detachable stub from the official ballot shall not invalidate it.

SECTION 30. REFERENDUM RETURNS. The Precinct Referendum Committee shall prepare simultaneously the referendum returns with the counting of the votes as provided for in Section 26 hereof. The referendum returns shall be prepared in four (4) copies and in the prescribed form to be certified by the Precinct Referendum Committee.

SECTION 31. REFERENDUM RECORDS AND DOCUMENTS. The District Referendum Committee shall canvass the referendum returns with the counting of the votes. The District Certificate of Canvass shall be prepared in four (4) copies and in the prescribed form to be certified by the District Referendum Committee, and to be distributed as follows:

- 1) Original copies together with the used ballots shall be placed in the ballot boxes to be sealed and signed by the Precinct Referendum Committee and submitted to the District Referendum Committee for canvassing;
- 2) Duplicate copies shall be submitted to the EC Board Secretary or the ISD Manager or his/her equivalent.

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SECTION 32. FINAL CANVASSING. The Overall Referendum Committee shall canvass the final results of the referendum based on the consolidated returns submitted by the District Referendum Committees and prepare a complete summary of votes received for each option to declare the option with the highest number of votes.

The highest number of votes shall be the plurality of the total valid votes cast and shall be declared the winner.

The Overall Referendum Committee shall turn over all the original referendum documents to the EC Board President or Vice President who shall certify the veracity of the result through a "Certificate of Membership Decision".

All original referendum documents shall be turned over to the Board Secretary or the ISD Manager for safekeeping and record purposes.

ARTICLE X – ELECTION PROTEST

SECTION 33. JURISDICTION. The National Electrification Administration (NEA) shall have exclusive jurisdiction over all post-referendum protests.

All verified post-referendum protests shall be filed before the NEA within three (3) days after the proclamation of the referendum results. The protesting party shall pay in cash to the NEA a filing fee of Five Hundred Thousand Pesos (P500,000.00) to defray expenses to be incurred in the resolution of the protest.

SECTION 34. DECISION ON PROTEST. The NEA shall decide on all post-referendum protests filed before it within the prescribed period of thirty (30) days after the date of receipt, and after notice and hearing. The NEA shall have the power to investigate, receive evidence and summon parties and witnesses.

SECTION 35. NOTICE OF DECISION. The NEA shall send copies of its decision to the protestant, protestee and the EC through the President of the Board of Directors. The decision of the NEA shall be final and executory.

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ARTICLE XI – FINAL PROVISION

SECTION 36. SEPARABILITY CLAUSE. If for any reason, any article, section, sentence, term or word used in these Guidelines is declared to be invalid or illegal, such part/s not affected by such declaration shall remain in full force and effect.

SECTION 37. EFFECTIVITY. These Guidelines shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Done in Quezon City, Metro Manila. **28th** day of **October 2014**.

CARLOS JERICHO L. PETILLA
Chairman

JOSE RAYMUND A. ACOL
Alternate of the Chairman

JOSE VICTOR E. LOBRIGO
Member

JOSEPH D. KHONGHUN
Member

EDITA S. BUENO
Member

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