



20 October 2015

MEMORANDUM No. 2015-030

TO : ALL ELECTRIC COOPERATIVES
SUBJECT : THE NEA ADMINISTRATIVE RULES OF PROCEDURES OF 2013, AS AMENDED

Pursuant to the authority of the Board under Section 5 of P.D. No. 269, as amended by R.A. No. 10531, the NEA Board of Administrators approved the revisions to some provisions of the NEA Administrative Rules of Procedures of 2013 on 10 July 2015 through Resolution No. 85.

Revisions:

- Payment of filing fee in the amount of PhP10,000.00;
- Referral of the case for mediation to a Mediator if parties are willing to enter into amicable settlement or alternative modes of dispute resolutions;
- Clarificatory hearing shall be limited to two (2) settings;
- Decision of NEA shall be executed as a matter of course. The refusal or failure by any officer without just cause to comply with an Order of the NEA to remove, suspend, fine or censure shall be a ground for a disciplinary action against said officer.

The NEA Administrative Rules of Procedures of 2013, as amended, was recently published in the Philippine Star on 04 September 2015 and took effect on 19 September 2015.

For your information and guidance.

EDITA S. BUENO
Administrator



NEA-OA222354 *RL*
10/26/15



THE NEA ADMINISTRATIVE RULES OF PROCEDURES OF 2013

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

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

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

"(a) issue orders, rules and regulations, *motu proprio* or upon petition of third parties, to conduct investigations, referenda and other similar actions on all matters affecting the electric cooperatives;

"(b) issue preventive or disciplinary measures including, but not limited to, suspension or removal and replacement of any or all of the members of the board of directors and officers of the electric cooperative, as the NEA may deem fit and necessary and to take any other remedial measures as the law or any agreement or arrangement with NEA may provide, to attain the objectives of this Act.

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

- a) Cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA's exercise of its *motu proprio* powers as provided in Section 6 of the Act. For the purpose of this section, the ECs officers referred to shall be the following:

A. BOR

- i. Members of the Board of Directors;
- ii. General Manager;
- iii. Department Managers;
- iv. Sub-Office Area Managers;
- v. Members of the Bids and Awards Committee;
or
- vi. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

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

RULE I TITLE

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

SECTION 2. SUPPLEMENTARY APPLICATION OF RULES OF COURT. — The pertinent provisions of the Revised Rules of Court shall, in the interest of speedy and efficient administrative justice, be applied by analogy and/or in a supplementary character and effect, in the absence of any applicable provision herein. (a)

RULE II DEFINITION OF TERMS

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

- (a) **"NEA"** shall mean the Board of Administrators of the National Electrification Administration;
- (b) **"ADMINISTRATIVE COMMITTEE"** or **"ADCOM"** shall mean the body or the teams in which NEA has delegated the authority to receive evidence and to make the appropriate recommendation in the administrative cases pending before it. The NEA, upon the recommendation of the Administrator, may increase or reduce the number of ADCOM teams.
- (c) **"ADMINISTRATIVE CASES"** shall mean cases involving complaints against the EC Officers, including those cases or investigation and other similar actions pursuant to the



NEA's exercise of its *motu proprio* powers as provided in Section 6 of the RA 10531.

(d) "**EC OFFICERS**" shall mean any or all of the following:

1. Members of the Board of Directors;
2. General Manager;
3. Department Managers;
4. Sub-Office Area Managers;
5. Members of the Bids and Awards Committee;
or
6. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

RULE III PLEADINGS, NOTICES AND APPEARANCES

SECTION 1. COMPLAINT. — A complaint against any or all of the EC Officers shall not be given due course unless it is in writing and verified to by the complainant(s) with payment of filing fee in the amount of Ten Thousand (P10,000.00) Pesos. However, in cases initiated by NEA, payment of filing fee is not required and the complaint need not be verified.

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

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

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

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

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

- (a) Full name and address of the complaint;

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

SECTION 2. ISSUANCE OF SUMMONS. — Within two (2) days from receipt of the complaint, the ADCOM Secretariat shall issue the required summons, attaching thereto a copy of the complaint/petition and supporting documents, if any. (a)

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

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

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

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

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

- (a) Motion to Dismiss the complaint except on, the ground of lack of jurisdiction over the subject matter, and forum shopping;
- (b) Motion for a Bill of Particulars;
- (c) Motion for New Trial;
- (d) Petition for Relief from Judgment when filed with the NEA-ADCOM;
- (f) Motion to Declare Respondent/s in Default.

SECTION 5. FAILURE TO ANSWER. — If the respondent fails to file his answer to the complaint within the reglementary period, he

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shall be considered to have waived his right thereto and formal hearing and investigation may commence.

SECTION 6. SERVICE OF NOTICES AND RESOLUTIONS. —

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

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

SECTION 7. PROOF AND COMPLETENESS OF SERVICE. —

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

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

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

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



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

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

RULE IV VENUE, ASSIGNMENT AND DISPOSITION OF CASES

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


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

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

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

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

An order resolving the motion shall be inappealable.

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

RULE V
PROCEEDINGS BEFORE THE NEA-ADCOM OR
HEARING OFFICER

SECTION 1. PRELIMINARY CONFERENCE. — Immediately upon receipt of the Answer, the ADCOM shall issue a Notice of Preliminary Conference for the purpose of amicably settling the case, determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulations of facts and threshing out all other preliminary matters.

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

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

Upon determination by the ADCOM of the willingness of the parties to undergo alternative modes of dispute resolution, they shall be referred for a mediation proceedings.

Conciliation and mediation efforts shall be exerted by the Mediator all throughout the proceedings. Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsel, or authorized representative, if any, before the ADCOM.

Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the mediation conference/s, the Mediator shall issue a certification of such failed mediation and refer the case back to the ADCOM for proper proceedings.

The mediation conferences shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference.



No motion for postponement shall be entertained except on meritorious ground.

Failure of any party to attend or be represented during the Preliminary Conference without good cause shown shall constitute a waiver of any objection to any agreement reached or to any order or ruling made as a result of the conference. (a)

SECTION 2. INTERVENTION. — (a) Who may intervene – A person who has a legal interest on the matter in litigation, or in the success of either of the parties, or an interest against both, may, with leave of the ADCOM, be allowed to intervene in the action. The ADCOM shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

(b) Time to intervene – The motion to intervene may be filed at any time before rendition of judgment by the NEA Board of Administrators or the NEA-ADCOM by authority of the latter. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

(c) Pleadings - in - intervention – The intervenor shall file a complaint-in-intervention if he asserts a claim against either-or all of the original parties, or an answer-in-intervention if he unites with the defending party in resisting a claim against the latter.

(d) Answer to complaint - in - intervention – The answer to the complaint-in-intervention shall be filed within ten (10) days from notice of the order admitting the same, unless a different period is fixed by the ADCOM.

SECTION 3. SUBMISSION OF POSITION PAPERS / MEMORANDA. — Without prejudice to the provisions of the last paragraph, Section 2 of this Rule, the ADCOM shall direct the parties to simultaneously submit their Position Papers, with supporting documents and affidavits within an inextendible **fifteen (15) days** from notice of termination of the preliminary conference.

These verified position papers to be submitted shall cover only those claims and causes of action raised in the complaint excluding those that may be amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony.

The parties shall thereafter not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause of



action not included in the complaint or position papers, affidavits and other documents.

SECTION 4. DETERMINATION OF NECESSITY OF HEARING.

— Immediately after the submission by the parties of their position papers, the ADCOM shall, *motu proprio*, determine whether there is a need for a clarificatory hearing. At this stage, the ADCOM may, at its discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness. Such clarificatory hearing shall be limited to two (2) settings. (a)

SECTION 5. NATURE OF PROCEEDINGS.

— The proceedings before the ADCOM shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The ADCOM may avail itself or himself/herself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 6. ROLE OF ADCOM IN PROCEEDINGS.

— The ADCOM/Hearing Officer shall conduct the conferences/hearings. Except as provided by law, the ADCOM shall determine the order of presentation of evidence by the parties, subject to the requirement of due process.

It shall take full control of the proceedings, examine the parties and their witnesses to satisfy itself with respect to the matters at issue, ask questions only for the purpose of clarifying points of law or fact involved in the case. It shall limit the presentation of evidence to matters relevant to the issue before it and necessary for a just and speedy disposition of the case. (a)

SECTION 7. MINUTES OF THE PROCEEDINGS.

— The proceedings before the ADCOM shall be recorded. However, it shall make a written summary of the proceedings, including the substance of the evidence presented.

SECTION 8. NON-APPEARANCE OF PARTIES, AND POSTPONEMENT OF HEARINGS.

— (a) Non-appearance at a hearing by the complainant, who was duly notified thereof, may be sufficient cause to dismiss the case without prejudice. Where proper justification, however, is shown by proper motion to warrant the re-opening of the case, the ADCOM shall call a second hearing and continue the proceedings until the case is finally decided, **subject to the submission of Position Papers**. Dismissal of the case for the

second time due to the unjustified non-appearance of the complainant or petitioner who was duly notified thereof shall be with prejudice.

(b) The parties and their counsel or representative appearing before the ADCOM shall be prepared for continuous hearing. No postponements or continuances of hearings shall be allowed by the ADCOM except upon meritorious grounds and subject always to the requirement of expeditious disposition of cases and the termination of hearings within ninety (90) calendar days from the date of initial hearing.

SECTION 9. ISSUANCE OF AN ORDER SUBMITTING THE CASE FOR DECISION. — After the parties have submitted their position papers and supporting documents, and upon evaluation of the case, the ADCOM finds no necessity of further hearing, he shall issue an order expressly declaring the submission of the case for decision.

SECTION 10. INHIBITION. — Members of the ADCOM may voluntarily inhibit from the resolution of a case and shall so state in writing the legal justification/s therefore. Upon motion of a party, either on the ground of relationship within the fourth civil degree of consanguinity or affinity with the adverse party or counsel, or on question of impartiality, the members of the ADCOM may inhibit from further hearing the case. Such motion shall be resolved within five (5) days from the filing thereof. An order denying or granting a motion for inhibition is not appealable.

SECTION 11. PERIOD TO DECIDE CASE. — The ADCOM shall recommend decision for the approval of the NEA within thirty (30) calendar days after the submission of the case by the parties for decision, even in the absence of stenographic notes.

SECTION 12. CONTENTS OF DECISIONS. — The decisions /orders shall be clear and concise and shall include a brief statement of the (a) facts of the case; (b) issue/s involved; (c) applicable law or rules; (d) conclusions and the reasons therefore; and (e) specific **administrative liability and its corresponding penalty, if any.**

SECTION 13. SERVICE. — Every order, ruling or decision made by the NEA shall be served upon the parties or counsel affected thereby within ten (10) days from the time said order, ruling or decision is filed, by personal delivery, electronic mail, through facsimile or via private courier upon the attorney of record or, in case there be no attorney of record, upon the party interested; and in case a certified copy is sent by registered mail, the registry mail receipt



shall be "*prima facie*" evidence of the receipt of such order, ruling or, decision by the parties in due course of mail.

SECTION 14. EXECUTION OF DECISION. — The Decision of the NEA shall be immediately executory. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

The refusal or failure by any officer without just cause to comply with an order of the NEA to remove, suspend, fine, or censure shall be ground for disciplinary action against said officer.

No injunction or temporary restraining order shall be issued against the implementation of any order, ruling or decision of the NEA, except by the Court of Appeals, and only upon the posting of a bond sufficient to cover the liabilities and expenditures arising during the pendency of the writ or injunction or temporary restraining order: *Provided*, that the injunction shall only be effective for a period not exceeding sixty (60) days. (a)

SECTION 15. CONTEMPT. — As a quasi-judicial agency, NEA is empowered to deputize local law enforcement agencies to enforce or implement its orders or decisions, with the power to cite for contempt any party or witness to any case before it for contumacious conduct.

The pertinent provisions on Contempt under Rule 71 of the 1997 Rules of Civil Procedure supplementary apply hereto and are adopted herein pursuant to Section 12, Rule 71 of the said 1997 Rules of Civil Procedure.

RULE VI REMEDIES

SECTION 1. MOTIONS FOR RECONSIDERATION. — Any interested party may request the reconsideration of any order, ruling, or decision of the NEA Board of Administrators by means of a motion filed not later than fifteen (15) days from receipt of notice of the order, ruling, or decision in question. The grounds in which request for reconsideration is based shall clearly and specifically be stated in the motion. Copies of the said motion shall be served on all parties interested on the matter.

The filing of a motion for reconsideration shall not be a ground for the non-implementation of the Decision or Order sought to be reconsidered.

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SECTION 2. GROUND FOR MOTION FOR RECONSIDERATION. — The Motion for Reconsideration shall be based on any of the following:

- (a) New evidence has been discovered which materially affects the decision rendered, or
- (b) The decision is not supported by the evidence on record, or
- (c) Errors of law or irregularities have been committed prejudicial to the interest of the movant.

SECTION 3. REVIVAL/RE-OPENING OR RE-FILING OF DISMISSED CASE. — A party may file a motion to revive or re-open a case dismissed without prejudice, within thirty (30) calendar days from receipt of notice of the order dismissing the same.

**RULE VII
OFFENSES AND PENALTIES**

SECTION 1. OFFENSES. — The following are the offenses and their respective penalties.

OFFENSES	1 st Offenses	2 nd Offenses	3 rd Offenses
(a) GRAVE OFFENSES			
(1) Grave Misconduct (work-related)	REMOVAL		
(2) Gross Neglect	REMOVAL		
(3) Conviction of a Crime Involving Moral Turpitude	REMOVAL		
(4) Falsification of Official Documents	REMOVAL		
(5) Dishonesty	REMOVAL		

(b) LESS GRAVE OFFENSES			
(1)Gross Incompetence in the Performance of Official Duties	Suspension 31-90 days	REMOVAL	
(2)Refusal to Perform Official Duty	Suspension 31-90 days	REMOVAL	
(3)Gross Insubordination	Suspension 31-90 days	REMOVAL	
(4)Conduct Prejudicial to the Interest of the Electric Cooperative and Member-Consumers	Suspension 31-90 days	REMOVAL	
(5)Willful Violation/Non-Compliance to NEA Issuances, Memoranda and Other Rules and Regulations	Suspension 31-90 days	REMOVAL	
(c)LIGHT OFFENSES			
(1)Simple Neglect of Duty	Suspension 1-30 days	Suspension 31-90 days	REMOVAL
(2)Simple Misconduct	Suspension 1-30 days	Suspension 31-90 days	REMOVAL
(3)Insubordination	Suspension 1-30 days	Suspension 31-90 days	REMOVAL
(d) The penalty of fine may be imposed instead of suspension from 1 – 30 days, payable to NEA.			

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SECTION 2. DISABILITIES/ACCESSORIES TO ADMINISTRATIVE PENALTIES.

- (a) Disqualification for reinstatement or reemployment in any electric cooperative;
- (b) Disqualification to run as candidate for a Board of Director position in any cooperative;
- (c) Forfeiture of retirement benefits.

SECTION 3. ADMINISTRATIVE DISABILITIES INHERENT IN CERTAIN PENALTIES.

- (a) The penalty of removal shall carry with it that of cancellation of eligibility to run for the position of EC director, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in any Electric Cooperative unless otherwise provided in the decision;
- (b) The penalty of fine shall be collected by the electric cooperative computed on the basis of the respondent(s)' salary/per diems and/or other allowances at the time the decision becomes final and executory and shall be remitted to NEA.

**RULE VIII
MISCELLANEOUS PROVISIONS**

SECTION 1. EFFECT OF PENDENCY OF PETITION FOR REVIEW/CERTIORARI WITH THE COURT. — The filing and pendency of a petition for review with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the final decision of the NEA unless the Court issues a restraining order or an injunction.

SECTION 2. COMPUTATION OF PERIOD. — In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a Legal holiday, in which case the period shall run until the end of the next working day which is neither Saturday, or Sunday nor a Legal holiday.

SECTION 3. FILING FEE. — The filing fee for a Complaint or Petition shall be Ten Thousand Pesos (10,000.00) subject to revision from time to time when the need arises. Such fee shall be paid at the Cashier of the NEA.

SECTION 4. REPEALING CLAUSE. — All other office Memoranda, Memorandum Circulars, Rules or Regulations


inconsistent with these Rules are hereby repealed or modified accordingly.


SECTION 5. EFFECTIVITY. — These Rules shall take effect fifteen (15) days from date of publication in official gazette or a newspaper of general circulation, and after submission of three (3) certified copies of these Rules and Regulations to the office of the National Administrative Registry at the University of the Philippines Law Center.


ZENAIDA Y. MONSADA
Chairman

JOSE RAYMUND A. ACOL
Alternate of the Chairman


JOSE VICTOR E. LOBRIGO
Member


EUGENE A. TAN
Member


VICTOR G. CHIONG
Member


EDITA S. BUENO
Member



THE NEA ADMINISTRATIVE RULES OF PROCEDURES OF 2013

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

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

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

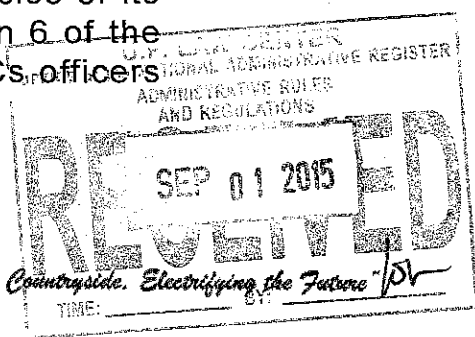
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"(b) issue preventive or disciplinary measures including, but not limited to, suspension or removal and replacement of any or all of the members of the board of directors and officers of the electric cooperative, as the NEA may deem fit and necessary and to take any other remedial measures as the law or any agreement or arrangement with NEA may provide, to attain the objectives of this Act.

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

- a) Cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA's exercise of its *motu proprio* powers as provided in Section 6 of the Act. For the purpose of this section, the ECs officers referred to shall be the following:

4/10/15



- i. Members of the Board of Directors;
- ii. General Manager;
- iii. Department Managers;
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- v. Members of the Bids and Awards Committee;
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- vi. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

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

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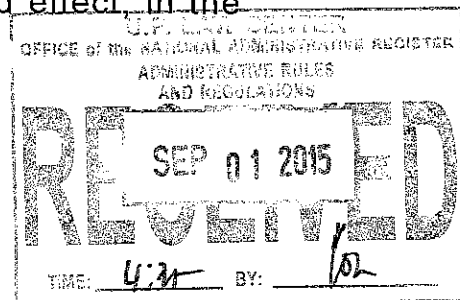
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- (b) "**ADMINISTRATIVE COMMITTEE**" or "**ADCOM**" shall mean the body or the teams in which NEA has delegated the authority to receive evidence and to make the appropriate recommendation in the administrative cases pending before it. The NEA, upon the recommendation of the Administrator, may increase or reduce the number of ADCOM teams.
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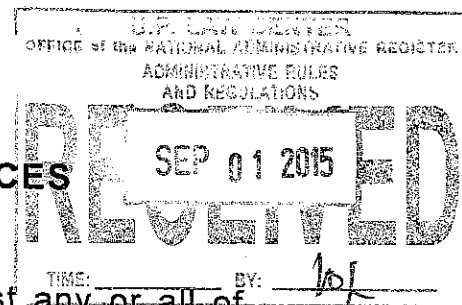


NEA's exercise of its *motu proprio* powers as provided in Section 6 of the RA 10531.

(d) "EC OFFICERS" shall mean any or all of the following:

1. Members of the Board of Directors;
2. General Manager;
3. Department Managers;
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5. Members of the Bids and Awards Committee;
- or
6. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

RULE III PLEADINGS, NOTICES AND APPEARANCES



SECTION 1. COMPLAINT. — A complaint against any or all of the EC Officers shall not be given due course unless it is in writing and verified to by the complainant(s) with payment of filing fee in the amount of Ten Thousand (P10,000.00) Pesos. However, in cases initiated by NEA, payment of filing fee is not required and the complaint need not be verified.

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

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

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

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

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

- (a) Full name and address of the complaint;

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

SECTION 2. ISSUANCE OF SUMMONS. — Within two (2) days from receipt of the complaint, the ADCOM Secretariat shall issue the required summons, attaching thereto a copy of the complaint/petition and supporting documents, if any. (a)

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

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

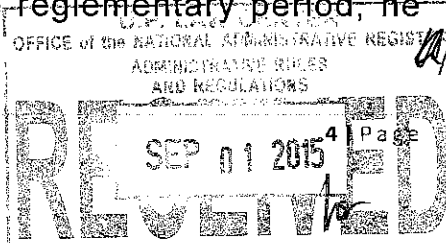
The "Answer", which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statement covering testimonies of witnesses, if there be any, in support of his/her case. It shall also include a statement indicating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

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

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

- (a) Motion to Dismiss the complaint except on, the ground of lack of jurisdiction over the subject matter, and forum shopping;
- (b) Motion for a Bill of Particulars;
- (c) Motion for New Trial;
- (d) Petition for Relief from Judgment when filed with the NEA-ADCOM;
- (f) Motion to Declare Respondent/s in Default.

SECTION 5. FAILURE TO ANSWER. — If the respondent fails to file his answer to the complaint within the ~~reglementary period, he~~



shall be considered to have waived his right thereto and formal hearing and investigation may commence.

SECTION 6. SERVICE OF NOTICES AND RESOLUTIONS. —

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

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

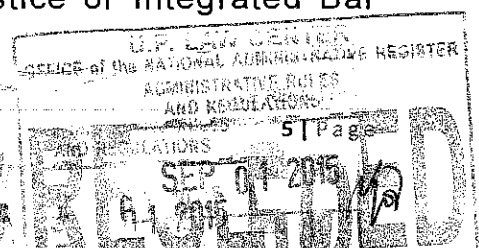
SECTION 7. PROOF AND COMPLETENESS OF SERVICE. —

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

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

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

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



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

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

RULE IV VENUE, ASSIGNMENT AND DISPOSITION OF CASES

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

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

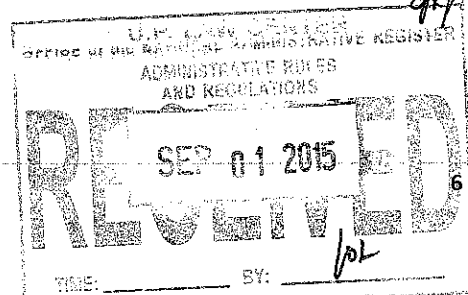
All pleadings subsequent to the filing of the complaint shall be forwarded to the ADCOM where the case is pending.

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

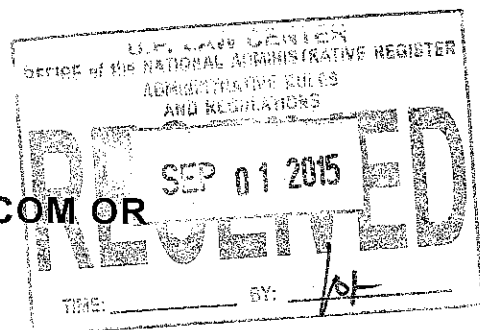
In case of objection to the consolidation, the same shall be resolved by the ADCOM.

An order resolving the motion shall be unappealable.

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



RULE V
PROCEEDINGS BEFORE THE NEA-ADCOM OR
HEARING OFFICER



SECTION 1. PRELIMINARY CONFERENCE. — Immediately upon receipt of the Answer, the ADCOM shall issue a Notice of Preliminary Conference for the purpose of amicably settling the case, determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulations of facts and threshing out all other preliminary matters.

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

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

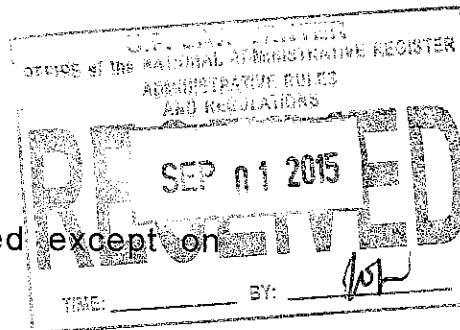
Upon determination by the ADCOM of the willingness of the parties to undergo alternative modes of dispute resolution, they shall be referred for a mediation proceedings.

Conciliation and mediation efforts shall be exerted by the Mediator all throughout the proceedings. Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsel, or authorized representative, if any, before the ADCOM.

Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the mediation conference/s, the Mediator shall issue a certification of such failed mediation and refer the case back to the ADCOM for proper proceedings.

The mediation conferences shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference.

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No motion for postponement shall be entertained except on meritorious ground.

Failure of any party to attend or be represented during the Preliminary Conference without good cause shown shall constitute a waiver of any objection to any agreement reached or to any order or ruling made as a result of the conference. (a)

SECTION 2. INTERVENTION. — (a) Who may intervene – A person who has a legal interest on the matter in litigation, or in the success of either of the parties, or an interest against both, may, with leave of the ADCOM, be allowed to intervene in the action. The ADCOM shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

(b) Time to intervene – The motion to intervene may be filed at any time before rendition of judgment by the NEA Board of Administrators or the NEA-ADCOM by authority of the latter. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

(c) Pleadings - in - intervention – The intervenor shall file a complaint-in-intervention if he asserts a claim against either-or all of the original parties, or an answer-in-intervention if he unites with the defending party in resisting a claim against the latter.

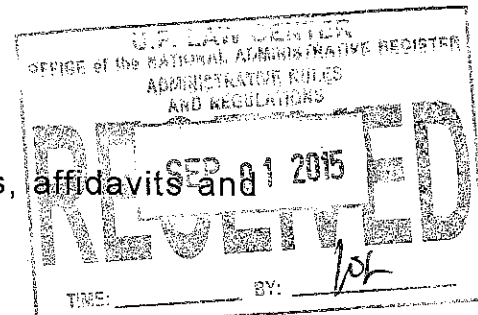
(d) Answer to complaint - in - intervention – The answer to the complaint-in-intervention shall be filed within ten (10) days from notice of the order admitting the same, unless a different period is fixed by the ADCOM.

SECTION 3. SUBMISSION OF POSITION PAPERS / MEMORANDA. — Without prejudice to the provisions of the last paragraph, Section 2 of this Rule, the ADCOM shall direct the parties to simultaneously submit their Position Papers, with supporting documents and affidavits within an inextendible **fifteen (15) days** from notice of termination of the preliminary conference.

These verified position papers to be submitted shall cover only those claims and causes of action raised in the complaint excluding those that may be amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony.

The parties shall thereafter not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause of

action not included in the complaint or position papers, affidavits and other documents.



SECTION 4. DETERMINATION OF NECESSITY OF HEARING.

— Immediately after the submission by the parties of their position papers, the ADCOM shall, *motu proprio*, determine whether there is a need for a clarificatory hearing. At this stage, the ADCOM may, at its discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness. Such clarificatory hearing shall be limited to two (2) settings. (a)

SECTION 5. NATURE OF PROCEEDINGS. — The proceedings before the ADCOM shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The ADCOM may avail itself or himself/herself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 6. ROLE OF ADCOM IN PROCEEDINGS. — The ADCOM/Hearing Officer shall conduct the conferences/hearings. Except as provided by law, the ADCOM shall determine the order of presentation of evidence by the parties, subject to the requirement of due process.

It shall take full control of the proceedings, examine the parties and their witnesses to satisfy itself with respect to the matters at issue, ask questions only for the purpose of clarifying points of law or fact involved in the case. It shall limit the presentation of evidence to matters relevant to the issue before it and necessary for a just and speedy disposition of the case. (a)

SECTION 7. MINUTES OF THE PROCEEDINGS. — The proceedings before the ADCOM shall be recorded. However, it shall make a written summary of the proceedings, including the substance of the evidence presented.

SECTION 8. NON-APPEARANCE OF PARTIES, AND POSTPONEMENT OF HEARINGS. — (a) Non-appearance at a hearing by the complainant, who was duly notified thereof, may be sufficient cause to dismiss the case without prejudice. Where proper justification, however, is shown by proper motion to warrant the re-opening of the case, the ADCOM shall call a second hearing and continue the proceedings until the case is finally decided, **subject to the submission of Position Papers.** Dismissal of the case for the

second time due to the unjustified non-appearance of the complainant or petitioner who was duly notified thereof shall be with prejudice.

(b) The parties and their counsel or representative appearing before the ADCOM shall be prepared for continuous hearing. No postponements or continuances of hearings shall be allowed by the ADCOM except upon meritorious grounds and subject always to the requirement of expeditious disposition of cases and the termination of hearings within ninety (90) calendar days from the date of initial hearing.

SECTION 9. ISSUANCE OF AN ORDER SUBMITTING THE CASE FOR DECISION. — After the parties have submitted their position papers and supporting documents, and upon evaluation of the case, the ADCOM finds no necessity of further hearing, he shall issue an order expressly declaring the submission of the case for decision.

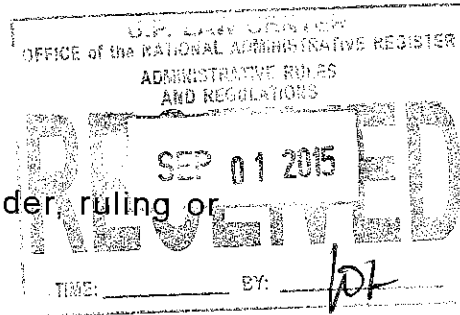
SECTION 10. INHIBITION. — Members of the ADCOM may voluntarily inhibit from the resolution of a case and shall so state in writing the legal justification/s therefore. Upon motion of a party, either on the ground of relationship within the fourth civil degree of consanguinity or affinity with the adverse party or counsel, or on question of impartiality, the members of the ADCOM may inhibit from further hearing the case. Such motion shall be resolved within five (5) days from the filing thereof. An order denying or granting a motion for inhibition is not appealable.

SECTION 11. PERIOD TO DECIDE CASE. — The ADCOM shall recommend decision for the approval of the NEA within thirty (30) calendar days after the submission of the case by the parties for decision, even in the absence of stenographic notes.

SECTION 12. CONTENTS OF DECISIONS. — The decisions /orders shall be clear and concise and shall include a brief statement of the (a) facts of the case; (b) issue/s involved; (c) applicable law or rules; (d) conclusions and the reasons therefore; and (e) specific **administrative liability and its corresponding penalty, if any.**

SECTION 13. SERVICE. — Every order, ruling or decision made by the NEA shall be served upon the parties or counsel affected thereby within ten (10) days from the time said order, ruling or decision is filed, by personal delivery, electronic mail, through facsimile or via private courier upon the attorney of record or, in case there be no attorney of record, upon the party interested; and in case a certified copy is sent by registered mail, the registry mail receipt

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shall be "*prima facie*" evidence of the receipt of such order, ruling or decision by the parties in due course of mail.

SECTION 14. EXECUTION OF DECISION. — The Decision of the NEA shall be immediately executory. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

The refusal or failure by any officer without just cause to comply with an order of the NEA to remove, suspend, fine, or censure shall be ground for disciplinary action against said officer.

No injunction or temporary restraining order shall be issued against the implementation of any order, ruling or decision of the NEA, except by the Court of Appeals, and only upon the posting of a bond sufficient to cover the liabilities and expenditures arising during the pendency of the writ or injunction or temporary restraining order: *Provided*, that the injunction shall only be effective for a period not exceeding sixty (60) days. (a)

SECTION 15. CONTEMPT. — As a quasi-judicial agency, NEA is empowered to deputize local law enforcement agencies to enforce or implement its orders or decisions, with the power to cite for contempt any party or witness to any case before it for contumacious conduct.

The pertinent provisions on Contempt under Rule 71 of the 1997 Rules of Civil Procedure supplementary apply hereto and are adopted herein pursuant to Section 12, Rule 71 of the said 1997 Rules of Civil Procedure.

RULE VI REMEDIES

SECTION 1. MOTIONS FOR RECONSIDERATION. — Any interested party may request the reconsideration of any order, ruling, or decision of the NEA Board of Administrators by means of a motion filed not later than fifteen (15) days from receipt of notice of the order, ruling, or decision in question. The grounds in which request for reconsideration is based shall clearly and specifically be stated in the motion. Copies of the said motion shall be served on all parties interested on the matter.

The filing of a motion for reconsideration shall not be a ground for the non-implementation of the Decision or Order sought to be reconsidered.

SECTION 2. GROUND FOR MOTION FOR RECONSIDERATION. — The Motion for Reconsideration shall be based on any of the following:

- (a) New evidence has been discovered which materially affects the decision rendered, or
- (b) The decision is not supported by the evidence on record, or
- (c) Errors of law or irregularities have been committed prejudicial to the interest of the movant.

SECTION 3. REVIVAL/RE-OPENING OR RE-FILING OF DISMISSED CASE. — A party may file a motion to revive or re-open a case dismissed without prejudice, within thirty (30) calendar days from receipt of notice of the order dismissing the same.

**RULE VII
OFFENSES AND PENALTIES**

SECTION 1. OFFENSES. — The following are the offenses and their respective penalties.

OFFENSES	1 st Offenses	2 nd Offenses	3 rd Offenses
(a) GRAVE OFFENSES			
(1) Grave Misconduct (work-related)	REMOVAL		
(2) Gross Neglect	REMOVAL		
(3) Conviction of a Crime Involving Moral Turpitude	REMOVAL		
(4) Falsification of Official Documents	REMOVAL		
(5) Dishonesty	REMOVAL		

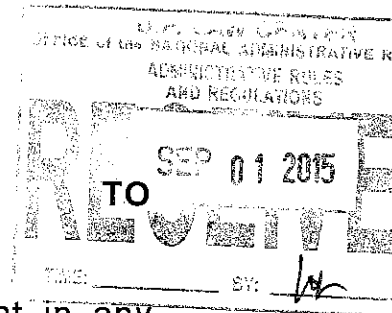
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(b) LESS GRAVE OFFENSES			
(1)Gross Incompetence in the Performance of Official Duties	Suspension 31-90 days	REMOVAL	
(2)Refusal to Perform Official Duty	Suspension 31-90 days	REMOVAL	
(3)Gross Insubordination	Suspension 31-90 days	REMOVAL	
(4)Conduct Prejudicial to the Interest of the Electric Cooperative and Member-Consumers	Suspension 31-90 days	REMOVAL	
(5)Willful Violation/Non-Compliance to NEA Issuances, Memoranda and Other Rules and Regulations	Suspension 31-90 days	REMOVAL	
(c) LIGHT OFFENSES			
(1)Simple Neglect of Duty	Suspension 1-30 days	Suspension 31-90 days	REMOVAL
(2)Simple Misconduct	Suspension 1-30 days	Suspension 31-90 days	REMOVAL
(3)Insubordination	Suspension 1-30 days	Suspension 31-90 days	REMOVAL
(d) The penalty of fine may be imposed instead of suspension from 1 – 30 days, payable to NEA.			

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SECTION 2. DISABILITIES/ACCESSORIES ADMINISTRATIVE PENALTIES.



- (a) Disqualification for reinstatement or reemployment in any electric cooperative;
- (b) Disqualification to run as candidate for a Board of Director position in any cooperative;
- (c) Forfeiture of retirement benefits.

SECTION 3. ADMINISTRATIVE DISABILITIES INHERENT IN CERTAIN PENALTIES.

- (a) The penalty of removal shall carry with it that of cancellation of eligibility to run for the position of EC director, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in any Electric Cooperative unless otherwise provided in the decision;
- (b) The penalty of fine shall be collected by the electric cooperative computed on the basis of the respondent(s)' salary/per diems and/or other allowances at the time the decision becomes final and executory and shall be remitted to NEA.

**RULE VIII
MISCELLANEOUS PROVISIONS**

SECTION 1. EFFECT OF PENDENCY OF PETITION FOR REVIEW/CERTIORARI WITH THE COURT. — The filing and pendency of a petition for review with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the final decision of the NEA unless the Court issues a restraining order or an injunction.

SECTION 2. COMPUTATION OF PERIOD. — In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a Legal holiday, in which case the period shall run until the end of the next working day which is neither Saturday, or Sunday nor a Legal holiday.

SECTION 3. FILING FEE. — The filing fee for a Complaint or Petition shall be Ten Thousand Pesos (10,000.00) subject to revision from time to time when the need arises. Such fee shall be paid at the Cashier of the NEA.

SECTION 4. REPEALING CLAUSE. — All other office Memoranda, Memorandum Circulars, Rules or Regulations

inconsistent with these Rules are hereby repealed or modified accordingly.

SECTION 5. EFFECTIVITY. — These Rules shall take effect fifteen (15) days from date of publication in official gazette or a newspaper of general circulation, and after submission of three (3) certified copies of these Rules and Regulations to the office of the National Administrative Registry at the University of the Philippines Law Center.

ZENAIDA Y. MONSADA
Chairman

JOSE RAYMUND A. ACOL
Alternate of the Chairman

JOSE VICTOR E. LOBRIGO
Member

EUGENE A. TAN
Member

VICTOR G. CHIONG
Member

EDITA S. BUENO
Member

