



# NATIONAL ELECTRIFICATION ADMINISTRATION

"The 1<sup>st</sup> Performance Governance System-Institutionalized National Government Agency"  
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9 July 2021

**MEMORANDUM**      *2021-26*

**TO**                    :      **ALL ELECTRIC COOPERATIVES**

**ATTENTION**        :      **ALL GENERAL MANAGERS**

**SUBJECT**            :      **Proposed Policy on EC Investment**

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The NEA Board of Administrators' instructed the Agency to formulate a Policy on EC Investment with the following objectives:

1. To identify the investment ventures that ECs can engage into
2. To lay down the guidelines and determinants to guide the ECs in formulating and undertaking their respective investment plan

Relative to this, we are sending the attached draft policy for your review, comments and recommendation.

Please send your response to [ecinvestmentconcerns@gmail.com](mailto:ecinvestmentconcerns@gmail.com) on or before July 24, 2021.

  
**EDGARDO R. MASONGSONG**  
Administrator

NATIONAL ELECTRIFICATION  
ADMINISTRATION  
Office of the Administrator



NEA-CA267278 *#21/21*

## DRAFT

### **POLICY/GUIDELINES ON ELECTRIC COOPERATIVES (ECs) INVESTMENT**

#### **I. Legal Bases**

*RULE III. Section 10. Mandates, Powers, Functions and Privileges of ECs of RA 10531 Implementing Rules and Regulations.*

In addition to the mandates, powers, functions and privileges accorded to ECs under EPIRA and its IRR, and pursuant to Section 16(j) of PD 269, as amended by the Act, the ECs are hereby empowered to:

- b. To engage in power generation within its franchise area. For the purpose of clarity, the EC shall ensure the quality of electricity service consistent with the standards provided in the EPIRA and its IRR, the Philippine Grid Code, the Philippine Distribution Code, and other relevant laws and standards including environmental, health and safety standards. The engagement of any EC in the power generation business shall contribute to greater efficiency and lower cost of operation as a distribution utility. In the exercise of its mandate, any EC may engage in power generation business through any of the following:
  - i. Construction of embedded generating facility in accordance with the cross ownership and market share limitations and standards set forth in EPIRA and its IRRs, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws;
  - ii. Acquisition of an existing generating facility from NPC-SPUG areas.

*Chapter II. Section 26. Distribution Related Businesses of RA 9136 Electric Power Industry Act.*

Distribution utilities may, directly or indirectly, engage in any related business undertaking which maximizes the utilization of their assets: Provided, That a portion of the net income derived from such undertaking utilizing assets which form part of the rate base shall be used to reduce its distribution wheeling charges as determined by the ERC. Provided, further, That such portion of net income used to reduce their distribution wheeling charges shall not exceed fifty percent (50%) of the net income derived from such undertaking: Provided, finally, That separate accounts are maintained for each business undertaking to ensure that the distribution business shall neither subsidize in any way such

business undertaking nor encumber its distribution assets in any way to support such business.

*Chapter VII. Section 58 of Republic Act No. 9136, of the EPIRA Law. Additional Mandate of the National Electrification Administration.*

NEA shall develop and implement programs:

- a. To prepare electric cooperatives in operating and competing under the deregulated electric market within five (5) years from the effectivity of this Act, specifically in an environment of open access and retail wheeling
- b. To strengthen the technical capability and financial viability of rural electric cooperatives; and
- c. To review and upgrade regulatory policies with a view to enhancing the viability of rural electric cooperatives as electric utilities.

*Section 16 (I) of Presidential Decree No. 269, as amended, vests in electric cooperatives (ECs) all powers necessary or convenient for the accomplishment of its corporate purpose, which powers shall include but not be limited to, the power:*

- a. To become a member of other cooperatives or Corporations or to own stock therein, provided such cooperatives or corporations are engaged in a business or activities germane to or having a reasonable relation to the business or activities of the cooperative, its members, its directors, or its employees;

*Section 10 of PD 269, as amended, provides:*

Section 10. Enforcement Powers. If any public service entity which has borrowed from the NEA, or from any other lender with the NEA's lawfully required prior approval, shall default in its principal or interest payments, or shall fail after notice from NEA, to comply with any term or condition of a loan agreement or of any rule or regulation promulgated by the NEA, in administering the provisions of this Decree, the Board of Administrators is hereby authorized and empowered in its discretion to do any or any combination of the following:

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No borrower shall, without the approval of the Board of Administrators and of any other lender holding or sharing a lien on such borrower's properties, sell or dispose of the property, rights, franchises, permits or any other asset acquired and or mortgaged pursuant to the provisions of this Decree until

all outstanding indebtedness to the NEA and any other such lender, including all interest owing thereon, shall be repaid; Provided, That the NEA may by appropriate rule or regulation grant general permission to borrowers to dispose of incidental properties (excluding real property), rights, franchises, permits or other assets no longer deemed necessary or useful in concluding the borrower's operations.

## **II. Objectives**

1. To identify the investment ventures that ECs can engage into
2. To lay down the guidelines and determinants to guide the ECs in formulating and undertaking their respective investment plan

## **III. Background**

To cope with the changes brought about by the restructuring of the electric power industry, the ECs are now undertaking different programs/strategies such as engaging into related business (i.e. power generation, sub-transmission lines, investment in financing institution) based on ERC, DOE and NEA rules/policies. Further, ECs are securing loans from NEA and commercial banks/financing institutions for the implementation of their programs and activities.

In several NEA Board of Administrators (BOA) meetings, members made comments and gave instructions on EC investments particularly on the prior approval by NEA or BOA on the investments made by an EC to a financing institution.

Because of the ECs non-profit nature, cooperative character and the heavy financial burdens that ECs must sustain to become effectively established and operationally viable, ECs should manage its investment portfolio necessary to support the implementation of its programs and activities. Thus, NEA is issuing the Policy on EC Investment.

## **IV. Policy Statement**

Pursuant to the mandate of the NEA to ensure financial viability of the ECs, this policy is being issued to serve as a guide in the investment ventures that the ECs may enter into, including but not limited to, becoming a member of other ECs or corporations or to own stock therein, provided such cooperative or corporation is engaged in a business or activities germane to or having a reasonable relation to the business or activities of the EC, its members, its directors or its employees. To ensure the ECs continued operation, investments of ECs shall need the prior approval of NEA.

The Administrator is authorized to approve the EC investment with certain limitations/conditions. The investments not covered by the authority of the Administrator shall be endorsed by the Administrator for approval by the Board of Administrators.

## **V. Coverage**

All investments of ECs sourced from internal generating fund/cash general fund, loan proceeds, and utilization of existing real properties and infrastructure facilities shall be covered by this policy.

The investment that the ECs may venture into may be for but not limited to the following:

- a. Power Generation and Network Facilities
- b. Equity in Banks and other Financing Institution
- c. Institutional Programs and Projects of the ECs (i.e. establishment of radio/TV stations for information and education campaign, Training Institute and other MCOs related projects)
- d. Investment in companies registered with the Securities and Exchange Commission (SEC)
- e. Other investments that may redound to the benefit of the MCOs

## **VI. Guidelines**

1. A study shall be conducted by the EC management on the most beneficial investment and financing opportunities applicable to the EC and adopted by the EC Board of Directors;
2. The investment shall be integrated to the EC's Cash Operating Budget (COB) and Workplan under the Medium and Long-Term Development Plans using the enhanced Integrated Computerized Planning Model (e-ICPM) for the determination of the EC's capability to sustain its optimal cash balance notwithstanding the projected outflows from the planned investments, the investment being part of the budget plan;
3. The approval by the EC member-consumer-owners (MCOs) of the EC Investment Plan shall be required through its Annual General Membership Assembly (AGMA) considering the substantial fund outflow that may be involved;
4. The ECs should monitor their Investment Portfolio and render a report to the MCOs;
5. Eligibility criteria:

- a. An EC must be classified as Green and categorized as AAA.
  - b. Must be current in the payment of its obligations (statutory, power accounts, loans)
  - c. Should have the required working capital maintaining balance before and after investment
  - d. The investment shall not be sourced from loan/borrowing except if it is a project investment, in which case, the project should pass economic and financial analysis
  - e. The investment does not result to rate increase.
6. Documentary requirements:
- a. Cost - Benefit Analysis/Study conducted by the EC management
  - b. BOD Resolution endorsing for AGMA confirmation
  - c. AGMA Resolution approving the investment and loan for project investments
  - d. e-ICPM and Cash Operating Budget incorporating the planned investment/project

## **VII. Evaluation and Approval**

1. Evaluation of the proposed investment shall be undertaken by concerned NEA Departments, as follows:
  - a. Project Study and/or Cost- Benefit Analysis
    - Generation and Network facilities –ED/TEREDD/TechServe
    - Equity in Financing Institution – MCSO/ECMS
    - Institutional Programs and Projects of the EC's (i.e. establishment of radio/TV stations, Training Institute and other MCOs related projects – IDD/ECMS
  - b. Cash Operating Budget – MCSO/ECMS
  - c. enhanced –Integrated Computer Planning Module – CPO
2. The Administrator is authorized to approve proposed investments subject to the following limitations:
  - Power Generation and Network Facilities - Php500 million and below per project per year

- Institutional Programs and Projects of the ECs – (PhP10 million and below per investment per year (i.e. establishment of radio/TV stations for information and education campaign, Training Institute and other MCOs related projects) subject to actual inflation rate
  - Investment in companies/cooperatives registered with the Securities and Exchange Commission (SEC) or Cooperative Development Authority (CDA) – PhP30 million and below per investment per annum
  - Other investments that redound to the benefits of the MCOs – PhP10 million and below per investment per annum
3. Investments not covered by the authority of the Administrator shall be submitted by concerned department to the Administrator for endorsement to the Board of Administrators' approval.

#### **VIII. NEA Audit**

All investments of ECs are subject to NEA audit.

#### **IX. Effectivity**

The policy shall take effect 15 days upon filing with the University of the Philippines Law Center (UPLC) pursuant to the Presidential Memorandum Circular No. 11 dated October 9, 1992.