

S. No. 1461
H. No. 7054

Republic of the Philippines
Congress of the Philippines
Metro Manila

Seventeenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fourth day of July, two thousand seventeen.

[REPUBLIC ACT NO. 11039]

AN ACT INSTITUTIONALIZING THE ELECTRIC COOPERATIVES EMERGENCY AND RESILIENCY FUND AND APPROPRIATING FUNDS THEREFOR

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

TITLE, POLICY, AND DEFINITIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Electric Cooperatives Emergency and Resiliency Fund Act".

SEC. 2. *Declaration of Policy.* - In cognizance of the objective on the total electrification of the Philippines on an area coverage basis being vital to the welfare of its people and

sound development of the nation, it is hereby declared the policy of the State to ensure and accelerate the total electrification of the country and pursue and foster, in an orderly and vigorous manner, the attainment of such objective. For this purpose, the State shall:

(a) Support and assist, to the fullest extent, electric cooperatives adversely affected by a fortuitous event or by *force majeure* in order to immediately restore electric service recognizing that the absence of electric service after a fortuitous event or by *force majeure* is a national security issue, thereby:

(1) Facilitating the rescue and relief operations, availability of basic services such as food, water, medicine, and hospitals, and mitigation of civil unrest;

(2) Aiding the normal functioning of local government units (LGUs) and communities, and easing the recovery of the adversely affected individuals and families; and

(3) Complementing the efforts of the affected LGUs in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas.

(b) Provide an orderly and continuing means of financial assistance to electric cooperatives in carrying out their responsibility of providing reliable electric service necessary to alleviate the sufferings and damages brought about by a fortuitous event or *force majeure* by:

(1) Allocating funds in the form of grants for disaster mitigation, disaster preparedness, and restoration or rehabilitation of electric cooperatives' damaged facilities that are readily accessible;

(2) Providing a streamlined process for the availment of the fund; and

(3) Requiring the electric cooperatives to develop and implement comprehensive vulnerability and risk assessments

which identify disaster preparedness and mitigation measures to protect and strengthen critical infrastructure assets, and emergency response plans to address immediate restoration or rehabilitation efforts.

SEC. 3. *Scope.* - This Act shall be applicable to all electric cooperatives throughout the country.

SEC. 4. *Definition of Terms.* - As used in this Act:

(a) *Disaster* refers to a serious disruption of the functioning of a community or a society involving widespread human, material, economic, or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources. Disasters are often described as a result of the combination of: the exposure to a hazard; the conditions of vulnerability that are present; and insufficient capacity or measures to reduce or cope with the potential negative consequences. Disaster impacts may include loss of life, injury, disease, and other negative effects on human, physical, mental, and social well-being, together with damage to property, destruction of assets, loss of services, social and economic disruption, and environmental degradation;

(b) *Disaster mitigation* refers to the lessening or limitation of the adverse impacts of hazards and related disasters. Mitigation measures encompass engineering techniques and hazard-resistant construction of structures as well as improved environmental policies and public awareness;

(c) *Disaster preparedness* refers to the knowledge and capacities developed by governments, professional response and recovery organizations, communities, and individuals to effectively anticipate, respond to, and recover from the impacts of likely, imminent, or current hazard events or conditions. Preparedness action is carried out within the context of disaster risk reduction and management and aims to build the capacities needed to efficiently manage all types of emergencies and achieve orderly transitions from response to sustained recovery. Preparedness is based on a sound analysis of disaster

risk and good linkages with early warning systems, and includes such activities as contingency planning, stockpiling of equipment and supplies, the development of arrangements for coordination, evacuation and public information, and associated training and field exercises. These must be supported by formal, institutional, legal, and budgetary capacities;

(d) *Disaster prevention* refers to the outright avoidance of adverse impacts of hazards and related disasters. It expresses the concept and intention to completely avoid potential adverse impacts through action taken in advance such as construction of dams or embankments that eliminate flood risks, land-use regulations that do not permit any settlement in high-risk zones, and seismic engineering designs that ensure the survival and function of a critical building in any likely earthquake;

(e) *Electric cooperative (EC)* refers to a distribution utility created and operating pursuant to Presidential Decree No. 269, otherwise known as the "National Electrification Administration Decree", as amended, and other existing laws;

(f) *Emergency response plan* refers to the written and formal plan developed based on the results of the Vulnerability and Risk Assessment. It contains the organizational structure and steps which will enable the EC to restore its system in a safe and timely manner after a fortuitous event or *force majeure*;

(g) *Force majeure* refers to an event that is a result of elements of nature that cannot be reasonably anticipated or controlled, such as typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave, or landslide;

(h) *Fortuitous event* refers to an act of war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion, or any violent or threatening action;

(i) *Joint Congressional Power Commission (JCPC)* refers to the Commission created under Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001";

(j) *National Electrification Administration (NEA)* refers to the government agency created under Presidential Decree No. 269, otherwise known as the "National Electrification Administration Decree", as amended;

(k) *National Disaster Risk Reduction and Management Fund* refers to the calamity fund appropriated under the annual General Appropriations Act which is used for disaster risk reduction or mitigation, prevention and preparedness activities, and disaster rehabilitation and recovery as provided under Republic Act No. 10121, otherwise known as the "Philippine Disaster Risk Reduction and Management Act of 2010";

(l) *Resiliency Compliance Plan* refers to a list of projects and programs of an EC, including the financial requirements, funding sources, and timeline of implementation, necessary to protect and mitigate the disaster vulnerability of all its infrastructure while taking into account the results of the Vulnerability and Risk Assessment;

(m) *Restoration or rehabilitation* refers to the actions or activities undertaken by the ECs to rebuild, replace, or repair the necessary facilities to provide reliable electric service to member-consumers after a fortuitous event or *force majeure*, taking into consideration the designs, materials, or equipment that will make the infrastructure more resilient; and

(n) *Vulnerability and Risk Assessment* refers to the EC's identification of critical assets and the development of disaster preparedness, and disaster prevention and mitigation measures to protect, restore, or strengthen critical assets prior to the onset of a fortuitous event or *force majeure*.

CHAPTER II

CREATION AND IMPLEMENTATION OF THE ELECTRIC
COOPERATIVES EMERGENCY AND RESILIENCY FUND AND
RESPONSIBILITIES OF THE NATIONAL ELECTRIFICATION
ADMINISTRATION AND THE ELECTRIC COOPERATIVES

SEC. 5. *Creation of the Electric Cooperatives Emergency and Resiliency Fund.* - There is hereby created an Electric Cooperatives Emergency and Resiliency Fund (ECERF) to be managed and administered by the NEA.

SEC. 6. *Powers and Functions of the National Electrification Administration (NEA).* - In addition to its current mandate, the NEA shall have the following powers and functions:

(a) Formulate policies and coordinate the implementation of all activities of the ECs relative to emergency and resiliency management, in consultation with the National Disaster Risk Reduction and Management Council (NDRRMC);

(b) Mandate the ECs to submit their respective comprehensive and integrated disaster management programs such as, but not limited to, Vulnerability and Risk Assessments and Emergency Response Plans, and thereafter monitor the implementation of the same;

(c) Review, approve, and certify, in consultation with the NDRRMC, all activities, including financial requirements, of the ECs relative to disaster mitigation, disaster preparedness, and disaster prevention plans as a result of the Vulnerability and Risk Assessment;

(d) Develop reasonable guidelines and rational documentary requirements for the ECs to avail of the ECERF;

(e) Formulate an efficient procedure for program participation and criteria for fund allocation;

(f) Determine the annual budget of the ECERF and submit the same for approval by Congress;

(g) Receive donations, in the form of funds, materials, or equipment, which are intended for the purpose of addressing the restoration of the ECs' infrastructure damaged by a fortuitous event or *force majeure*, subject to existing auditing rules and regulations;

(h) Provide necessary assistance to the ECs, including the preparation of individual Resiliency Compliance Plans for incorporation in their respective Distribution Development Plans submitted to the NEA;

(i) Ensure that the ECs' resiliency programs are feasible in accordance with sound management, economic, and engineering standards; and

(j) Promulgate such rules and regulations as may be necessary to implement the objectives and provisions of this Act.

SEC. 7. *Responsibilities of the Electric Cooperatives (ECs).* - In addition to their primary mandate to implement the rural electrification program of the country under existing laws, the ECs shall ensure the protection, preparedness, and mitigation of the adverse impact of any fortuitous event or *force majeure* to their infrastructure.

The ECs shall also ascertain the ability of their manpower to undertake emergency response for the immediate restoration or rehabilitation of their damaged infrastructure after a fortuitous event or *force majeure*.

The ECs shall likewise have the following additional responsibilities:

(a) Submit to the NEA a Vulnerability and Risk Assessment of all their infrastructure in accordance with the NEA-approved template;

(b) Prepare and submit to the NEA a Resiliency Compliance Plan, to include a list of projects and programs, including the financial requirements, funding sources, and

timeline of implementation, necessary to protect and mitigate the disaster vulnerability of all their infrastructure;

(c) Institutionalize and submit to the NEA an Emergency Response Plan to be activated immediately after the occurrence of a fortuitous event or *force majeure*;

(d) Comply with the NEA's policies and procedural requirements for program participation and fund allocation;

(e) Submit reports as may be required by the NEA; and

(f) Undertake all other activities necessary to implement the objectives and provisions of this Act.

SEC. 8. *The National Electric Cooperatives Emergency and Resiliency Plan (NECERP)*. – All ECs shall submit to the NEA and update their respective Vulnerability and Risk Assessments, Resiliency Compliance Plans, and Emergency Response Plans every year. The failure to submit said assessment and plans shall bar the ECs from accessing the ECERF. The NEA shall monitor and evaluate the use and disbursement of the ECERF based on the Vulnerability and Risk Assessment, Emergency Response Plan, and Resiliency Compliance Plan of each EC.

On the basis of said assessment and plans submitted by the ECs, the NEA shall produce a comprehensive NECERP which shall be integrated into the National Disaster Risk Reduction and Management Plan provided for under Republic Act No. 10121, otherwise known as the "Philippine Disaster Risk Reduction and Management Act of 2010". The NECERP shall be updated and submitted not later than March 15 of every year to the JCPC.

CHAPTER III

FUND SOURCES AND ALLOCATION

SEC. 9. *Appropriations*. – The sum of Seven hundred fifty million pesos (P750,000,000.00) for the initial implementation

of this Act shall be taken from the National Disaster Risk Reduction and Management Fund. The Seven hundred fifty million pesos (P750,000,000.00) comprising the initial amount of the ECERF shall be immediately released to the NEA Quick Response Fund for proper release to qualified ECs subject to Section 10 of this Act. Thereafter, such amounts necessary for the sustainable implementation of the ECERF shall be included in the annual General Appropriations Act.

SEC. 10. *Allocation of the Electric Cooperatives Emergency and Resiliency Fund (ECERF)*. – The ECERF shall be allocated exclusively for the restoration or rehabilitation of the ECs' damaged infrastructures after a fortuitous event or *force majeure*: *Provided*, That the amount shall not be used for the conversion of a calamity loan into a grant.

In case of a deficiency of the fund, the NEA shall seek for the allocation of a supplementary budget from the National Disaster Risk Reduction and Management Fund, subject to the approval by the President of the Republic of the Philippines.

SEC. 11. *Donations*. – Donations in the form of funds, materials, or equipment, whether local or international, intended for the express purpose of restoring or rehabilitating the ECs' infrastructure damaged by a fortuitous event or *force majeure*, shall be received directly by the NEA, subject to existing auditing rules and regulations and shall be exempt from all duties, fees, taxes, and other charges.

CHAPTER IV

GENERAL PROVISIONS

SEC. 12. *Reportorial Requirements*. – The NEA shall take the necessary measures to ensure that the provisions of this Act are properly implemented and submit quarterly reports on the implementation of the program and the utilization of the ECERF to the Department of Energy, the JCPC, and the Office of the President of the Republic of the Philippines.

SEC. 13. *Congressional Oversight.* - Upon the effectivity of this Act, the JCPC shall exercise oversight functions over the implementation of this Act.

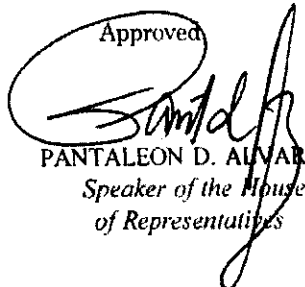
SEC. 14. *Evaluation.* - Within five (5) years after the effectivity of this Act, the JCPC shall conduct a systematic evaluation of the accomplishments and impact of this Act for purposes of determining remedial legislation.

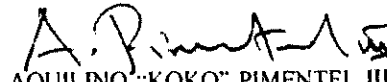
SEC. 15. *Implementing Rules and Regulations.* - The NEA shall, in consultation with relevant government agencies, ECs, and end-users, promulgate the implementing rules and regulations within six (6) months from the effectivity of this Act.

SEC. 16. *Separability Clause.* - If, for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.


SEC. 17. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.


SEC. 18. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation.

Approved

PANTALEON D. ALVAREZ
Speaker of the House
of Representatives


AQUILINO "KOKO" PIMENTEL III
President of the Senate


This Act which is a consolidation of Senate Bill No. 1461 and House Bill No. 7054 was passed by the Senate and the House of Representatives on March 19, 2018.

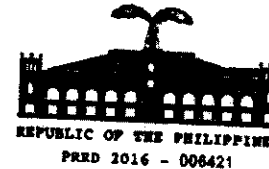

CESAR STRAIT PAREJA
Secretary General
House of Representatives


LUTGARDO B. BARBO
Secretary of the Senate

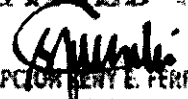
Approved: JUN 29 2019




RODRIGO ROA DUTERTE
President of the Philippines



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