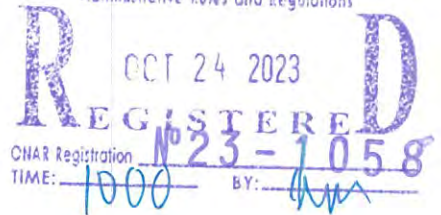




OCT 05 2023

MEMORANDUM No. **2023-52**

U.P. LAW CENTER
OFFICE of the NATIONAL ADMINISTRATIVE REGISTER
Administrative Rules and Regulations



TO : ALL ELECTRIC COOPERATIVES (ECs)

SUBJECT : POLICY AMENDING NEA MEMORANDUM NO. 2014-003,
"COLLECTIVE BARGAINING AGREEMENT (CBA) OF
ELECTRIC COOPERATIVES (2ND REVISION)"

I. OBJECTIVE

To ensure compliance with the Supreme Court Decision in *Cooperative Rural Bank vs. Pura Ferrer-Calleja, Director, Bureau of Labor Relations, et al.* (G.R. No. 77951, 26 September 1988) and as reiterated in the Supreme Court case of *Batangas I Electric Cooperative Labor Union vs. Romeo A. Young, OIC, Bureau of Labor Relations and Batangas I Electric Cooperative, Inc.* (G.R. Nos. 62386, 70880, 74560, 9 November 1988) and to rationalize the grant of benefits and allowances through the Collective Bargaining Agreement (CBA) of all employees of unionized electric cooperatives in order to fulfill the mandate of total rural electrification.

II. RATIONALE

As public utilities, the very nature of the business of the EC's is imbued with public interest, and thus, subject to strict regulation by the state on the exercise of its police power. The NEA had manifested a liberal stand in the organization of EC employees Union and Association and in the formulation of CBAs which have remained to be the primary responsibility of the EC Board of Directors and Management with the positive participation of the Union/Association.

Through various NEA memoranda, the ECs' Management have all been enjoined to evaluate their financial capability in order to implement and sustain proposals, i.e., economic packages, for their employees in the CBA negotiations. On the other hand, Employees Unions/Associations were advised to provide a complete basis for their demands for non-economic incentives and monetary benefits and to ensure that the ECs viability is not impaired or otherwise made vulnerable to a downgrading of category.

However, some Unions/Associations have not completely heeded the call for more reasonable economic and non-economic demands resulting to financial difficulties of electric cooperatives thus affecting the delivery of crucial electric service to its member-consumers. Thus, to strengthen harmonious relationship, promote the well-being of employees, as well as the welfare of member-consumers,

transparency which requires consultation and involvement of other sectors/stakeholders shall be required.

III. LEGAL BASES:

Section 4 of Presidential Decree No. 269 (PD 269), as amended by Republic Act No. 10531 (RA 10531), mandates NEA to strengthen the electric cooperatives, help them become economically viable and prepare them for the implementation of retail competition and open access pursuant to Section 31 of the EPIRA.

Republic Act No. 11659 (RA 11659), which amended Commonwealth Act No. 146 (CA 146) or the Public Service Act, states that a public utility refers to a public service that operates, manages, or controls for public use the Distribution of Electricity, which includes Distribution Utilities or Electric Cooperatives.

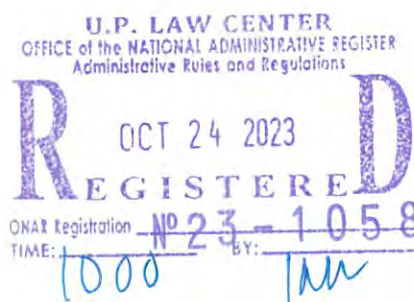
An Electric Cooperative is a private, non-profit entity whose purpose is to safely deliver electricity to its members or consumers at the least possible cost.

It is the State policy to promote and emphasize the primacy of collective bargaining in setting working conditions or the creation of a mechanism by which employers and recognized and certified labor unions bargain collectively.

Section 3, Article XIII, of the 1987 Constitution of the Republic of the Philippines, provides that the State shall guarantee the right of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage.

The Supreme Court in *Batangas I Electric Cooperative Labor Union vs. Romeo A. Young, OIC, Bureau of Labor Relations and Batangas I Electric Cooperative, Inc.* (G.R. No. 62386, 70880, 74560, 9 November 1988), citing *Cooperative Rural Bank of Davao City Inc. vs. Pura Ferrer-Calleja, Director, Bureau of Labor Relations, et al.* (GR. No. 77951, 26 September 1988), ruled that an employee of a cooperative who is a member and co-owner thereof cannot invoke the right to collective bargaining. In other words, employees of cooperatives who are themselves members of the cooperative have no right to form or join labor organizations for purposes of collective bargaining for being themselves co-owners of the cooperative.

The Supreme Court, in the case of *Associated Labor Unions-Trade Union Congress of the Philippines (ALU-TUCP) vs. The National Electrification Administration (NEA) and Edita S. Bueno in her capacity as NEA Administrator* (GR No. 226038, 24 July 2017) issued a resolution sustaining the Court of Appeals and upholding that NEA Memorandum No. 2014-003, the subject matter of which is the Collective Bargaining Agreement (CBA) and Collective Negotiation Agreement (CNA) of ECs, is not against the law.

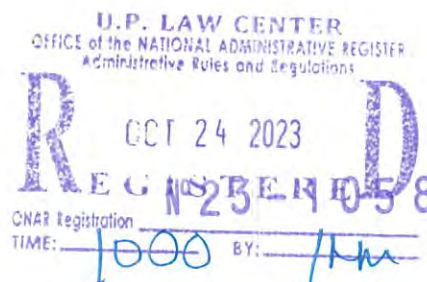


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IV. IMPLEMENTATION

Based on the foregoing principles, the following guidelines are hereby instituted:

1. The Multi-Sectoral Electrification Advisory Council (MSEAC) and/or Member-Consumers-Owners Program for Empowerment (MCOPE) representatives with no less than three (3) members or those who may be duly authorized to represent MSEAC or MCOPE, shall be part of the consultative panel for the review and negotiation of the proposed provisions of CBAs. The intention is to allow the members to participate in such an important process which decision will have an impact on their electric bills and ultimately in the future of their ECs moving forward.
2. Only employees of ECs who are not members or co-owners of such ECs are entitled to exercise the rights of all workers to organization, collective bargaining, negotiations and to join labor organizations. Conversely, employees of ECs who are themselves members of the electric cooperative cannot join or become members of labor union/s of an EC.
 - 2.1 A Sworn Affidavit executed by the Management through the General Manager certifying that all employees who are members of the Union are not registered member-consumer-owners (MCOs) of the cooperative. This document will form part of the proposed CBA.
3. A briefing session shall be done for all those who will be involved in the negotiations to be updated on present operations and will also be provided information on procedural requirements. This shall ensure that demands and proposals are reasonable and within the bounds of NEA regulations and other existing laws.
 - 3.1 To ensure fair representation from both Management and Union, the Labor Management and Consultative Council (LMCC) shall be composed of the following members:
 - Three Representatives from the Management:
 - The General Manager
 - Institutional Services Manager or its representative
 - Finance Services Manager or its representative
 - Three Representatives from the Union/Association:
 - Union/Association President/Vice President
 - Any two authorized representatives from the Union/Association
4. Salaries and Retirement benefits of employees should not form part of the bargaining agreement, but subject to NEA's guidelines, evaluation and explicit approval. Likewise, all benefits pursuant to existing NEA Memoranda shall no longer be subject to negotiation.



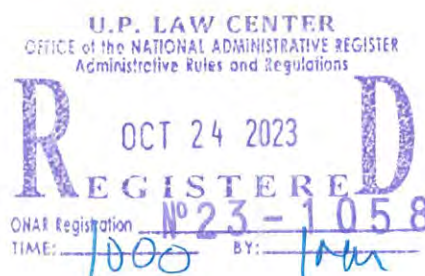
5. The Board/Management, after a thorough study/analysis with the objective of a balanced welfare for both employees and member-consumers and after considering the overall financial standing of the EC, including the rate impact of all the proposed benefits which may have on the Distribution Supply and Metering (DSM). The draft Agreement shall be submitted to NEA for its evaluation and consideration prior to signing by the parties.
6. The CBA shall be submitted to the General Assembly for its final approval with a full report of the possible rate impact of the monetary benefits to the EC's DSM.
7. All CBAs shall be ratified by a plurality of votes of the General Membership Assembly during the AGMA or in a legally convened special assembly called for, among others, this purpose, before implementation.
8. All economic and non-economic provisions, including the release of all monetary benefits included in the CBA shall be included in the EC's Cash Operating Budget (COB) and shall only be released subject to the EC's availability of funds and to existing accounting and auditing rules and regulations and with full adherence to NEA's financial parameters and/or non-impairment of the monthly working capital requirements and in accordance with the policies on the categorization of ECs.
9. All CBAs shall be made available to the general member-consumers through the EC/NEA website.
10. Disbursement/release of all existing economic benefits of the prevailing CBA shall be subject to NEA's review, evaluation and explicit approval prior to disbursement by the EC based on Key Performance Parameters and availability of funds of the cooperative to ensure its financial sustainability.
11. Finally, the Board/Management together with the Union/Association shall exert all efforts to maintain a high degree of understanding and sense of responsibility and avoid the possible incidence of unnecessary labor disputes that will impair operations.

V. PENALTY PROVISION:

Non-compliance with any of the provisions herein, the Management and Board of Directors of the EC shall be administratively liable pursuant to NEA Memorandum No. 2015-030 or "The NEA Administrative Rules of Procedures of 2013, as amended."

VI. AMENDATORY CLAUSE

This supersedes NEA Memorandum 2014-003 or the "Collective Bargaining Agreement (CBA) and Collective Negotiation Agreement (CNA) of Electric Cooperatives," issued on 02 January 2014.

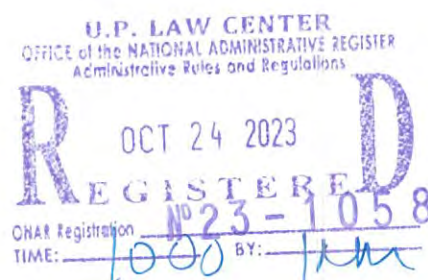


VII. EFFECTIVITY

This Policy shall take effect immediately upon filing with the University of the Philippines (UP) Law Center pursuant to the Presidential Memorandum Circular No. 11 dated 9 October 1992.

For strict compliance.


ANTONIO MARIANO C. ALMEDA
Administrator





NATIONAL ELECTRIFICATION ADMINISTRATION

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



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23 October 2023

THE DIRECTOR

Office of the national Administrative Register
University of the Philippines Law Center
U.P. Law Center, Diliman
Quezon City

Sir:

Greetings of peace and good health!

Pursuant to Book VII, Chapter 2, Section 3 of the 1987 Administrative Code of the Philippines, we are respectfully submitting to the U.P. Law Center, for filing, publication and recording the attached certified true copies of the **POLICY AMENDING NEA MEMORANDUM NO. 2014-003, "COLLECTIVE BARGAINING AGREEMENT (CBA) OF ELECTRIC COOPERATIVES (2ND REVISION)** promulgated by the National Electrification Administration (NEA) in accordance with its authority under Section 5 of P.D. No. 269 as amended.

Thank you very much for the usual and kind assistance of the U.P. Law Center.

Very truly yours,


ATTY. GWEN P. ENCISO-KYAMKO
Acting Corporate Board Secretary V

