

**COMMENTS/RECOMMENDATIONS ON THE DRAFT JOINT MEMORANDUM CIRCULAR (JMC) ON THE GUIDELINES ON THE AVAILMENT OF PREFERENTIAL RIGHTS GRANTED TO ELECTRIC COOPERATIVES UNDER REPUBLIC ACT NO. 7160**

**COMPANY:** \_\_\_\_\_

Original Provision of JMC	Proposed Revision	Rationale/Comments
Joint Memorandum Circular (JMC) No.:     _     Date: _		
To     Local Chief Executives, Members of Local Sanggunian, Local Treasurers and Assessors, National Electrification Administration (NEA), and All Other Concerned		
Subject     GUIDELINES ON THE AVAILMENT OF PREFERENTIAL RIGHTS OF ELECTRIC COOPERATIVES UNDER REPUBLIC ACT (RA) NO. 7160 IN RELATION TO RA NO. 10531		
1.0     PURPOSE. This Joint Memorandum Circular (JMC) is being issued to provide guidance to local government units (LGUs) on the availment of preferential rights of electric cooperatives in accordance with RA No. 7160 or the Local Government Code (LGC) of 1991, in relation to RA No. 10531 or the National Electrification Administration Reform Act of 2013, and other existing laws, rules and regulations.		
2.0     LEGAL BASES. This Circular is issued on the following legal bases:		
2.1     Sections 133(n) of RA No. 7160 provides for the common limitations on the taxing powers of local government units that the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy on taxes, fees,		

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<p>or charges, on Countryside and Barangay Business Enterprises and cooperatives duly registered under RA No. 6810 and RA No. 6938, otherwise known as the “Cooperatives Code of the Philippines” respectively;</p>		
	<p>2.2 Sections 133(n) of RA No. 7160 provides that all real property owned by duly registered cooperatives as provided for under RA No. 6938 are exempt from real property tax;</p>	<p>BLGF-26 - Include complete provision</p>
<p>2.3 Section 12 of RA No. 10531 states that all electric cooperatives may choose to remain as a non-stock, non-profit cooperative or convert into and register as: (a) a stock cooperative under the CDA; or (b) a stock corporation under the Securities and Exchange Commission (SEC). Provided, however, that electric cooperatives registered with the SEC shall no longer enjoy the incentives provided for under RA No. 10531. Despite the registration of the electric cooperatives under the CDA or the SEC, the NEA shall retain its supervisory and disciplinary power over them in the conduct of its operation as electric distribution utilities; and</p>		
<p>2.4 Section 13 of RA No. 10531 provides that, to avail of the preferential rights granted to cooperatives under RA No. 7160 and other related laws, the electric cooperatives shall comply with the financial and operational standards set by the NEA; and</p>		
<p>2.5 Section 18 of Implementing Rules and Regulations (IRR) of RA No. 10531 provides that the DOE and the DOF-BLGF shall issue the applicable guidelines in relation to the availment of preferential rights granted to cooperatives under RA No. 7160 and RA No. 10531.</p>		

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3.0 COVERAGE. This JMC shall be applicable to non-stock, non-profit, electric cooperatives registered with NEA, and stock electric cooperatives registered with the CDA.		
4.0 DEFINITION OF TERMS.		
4.1 Certificate of Compliance refers to the certification issued by the NEA for NEA-registered electric cooperatives under Section 6 herein provided;		
4.2 Certificate of Good Standing refers to the certification issued by the CDA for CDA-registered electric cooperatives;		
4.3 Electric cooperative shall refer to an electric distribution utility organized and registered with NEA pursuant to Presidential Decree No. 269, as amended by RA No. 10531, and other related laws, and registered as a stock cooperative under the CDA;		
4.4 Local government units shall refer to provinces, cities, municipalities, and barangays;		
4.5 Local taxes are taxes levied by the LGU, which shall not include fees and charges as defined under Section 131(g) and (l), respectively, of the LGC of 1991;		BLGF-26 – Enumerate fees and charges
4.6 Preferential rights shall refer to the exemption of electric cooperatives, under Section 13 of RA No. 10531, from payment of real property taxes pursuant to Section 234(d) of RA No. 7160, and of taxes, fees, or charges levied by provinces, cities, municipalities, and barangays under Section 133(n) of RA No. 7160.	4.6 Preferential rights shall refer to the exemption of electric cooperatives, under Section 13 of RA No. 10531, from payment of real property taxes pursuant to Section 234(d) of RA No. 7160, and of taxes, <del>fees, or charges</del> levied by provinces, cities, municipalities, and barangays under Section 133(n) of RA No. 7160.	
5.0 AVAILMENT OF PREFERENTIAL RIGHTS TO ELECTRIC COOPERATIVES. All NEA-		

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<p>registered electric cooperatives which comply with the financial and operational standards set by the NEA shall not be subject to local taxes as preferential rights granted to cooperatives under the LGC and other related laws.</p>		
<p>6.0 CERTIFICATION OF FINANCIAL AND OPERATIONAL STANDARDS. As proof of compliance with the financial and operational standards, electric cooperatives shall secure a Certificate of Compliance from the NEA to be submitted to the local treasurers concerned for the availment of preferential rights mentioned in Section 5.</p>		
<p>7.0 FEES AND CHARGES. Electric cooperatives are subject to the regulation and imposition of reasonable fees and charges imposed by the LGU concerned in line with the DILG-DOF JMC No. 2019-01, to recover the cost of services that the LGU may render as a function of regulation and/or service provision, and as may be provided under a duly enacted local ordinance. In particular, electric cooperatives are still required to:</p>		<p>NCP – This does not contradict the exemption granted to cooperatives as provided under Sec 133(n) of LGC, to wit:</p>
<p>a. Obtain or secure a Mayor's permit and pay the commensurate reasonable cost of regulation, inspection, and surveillance of the operation of its business under the duly enacted local ordinance of the LGU concerned;</p>		<p>NCP - "Fee" is defined under Sec 131(l) of the LGC as a "charge fixed by law or ordinance for the regulation or inspection of a business or activity". Sec 133(n) expressly prohibits LGUs from levying such fees on cooperatives</p>
<p>b. Secure a Community Tax Certificate (CTC) as a juridical entity and pay the basic tax under the duly enacted local ordinance of the LGU concerned;</p>		

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c. Pay the service charges or rentals for the use of property, and equipment or public utilities owned by the local government units concerned such as charges for actual water consumption, electric power, toll fees for the use of public roads and bridges, and the like.		NCP - "Charges" is defined under Sec 131(g) as "pecuniary liability, as rents or fees against persons or property". Sec 133(n) expressly prohibits LGUs from levying charges on cooperatives.
8.0 ROLES AND RESPONSIBILITIES.		
8.1 DOF-BLGF		
i. Disseminate the JMC and strictly enforce its implementation to all local treasurers within their respective jurisdictions; and		
ii. Monitor the compliance of the LGUs, through the concerned local treasurers, and provide the necessary technical assistance to local governments for the purpose.		
8.2 DOE		
i. Assist in the dissemination of the JMC through the DOE Field Offices;		
ii. Conduct a review of this JMC, in coordination with the DOF-BLGF, whenever necessary.		
8.3 NEA		
i. Provide guidelines on issuance of Certificate of Compliance on the availment of preferential rights of electric cooperatives;		
ii. Issue the necessary Certificate of Compliance to electric cooperatives in relation to its compliance with NEA financial and operational standards;		
iii. Annually assess the financial and operational performance of electric cooperatives based on		

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the guidelines for the availment of preferential rights;		
iv. Disseminate the guidelines of the NEA on the performance standards for the availment of preferential rights;		
v. Provide assistance to electric cooperatives for the continuous compliance with the NEA's financial and operational standards for the availment of preferential rights;		
vi. Regularly review the standards issued by the NEA;		
vii. Protect the interest of the member-consumers and the public in general; and		
viii. Disseminate the JMC to the electric cooperatives for compliance.		
9.0 EXISTING LOCAL TAX ORDINANCES. In case of existing ordinances or revenue measures of the LGUs that are inconsistent with the provisions of this Circular, the concerned local treasurers are enjoined to make the necessary and immediate representations with their respective Local Chief Executives and Sanggunian concerned for the amendment thereof to ensure compliance with the applicable laws, rules, and regulations.		
10.0 REPEALING CLAUSE. All rules, regulations, orders, and/or Circulars previously issued by the DOE and DOF that are contrary to, or inconsistent with the provisions of this JMC are hereby repealed or modified accordingly.		
11.0 CASES FOR RESOLUTION. All issues and requests for clarifications or further guidance concerning this JMC shall be referred to the		

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DOF-BLGF for resolution by the DOE and the DOF.		
12.0 EFFECTIVITY. This JMC shall take immediately upon publication in a newspaper of general circulation or the Official Gazette, and upon the filing of three (3) copies with the Office of the National Administrative Register of the University of the Philippines Law Center.		