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NEA cites legal basis for BENEKO leadership intervention

The National Electrification Administration (NEA) has explained the legal basis for interfering in the leadership and management of the Benguet Electric Cooperative, Inc. (BENEKO).

In a report submitted to the Senate Committee on Energy, the NEA said the process of selection and hiring of an electric cooperative (EC) general manager is governed by the agency's Memorandum No. 2017-035, issued in October 2017.

The memorandum provides, among others, that all applicants vying for a General Manager position must be given fair and just chance in the selection process, and that an incumbent Officer-in-Charge-General Manager (OIC-GM) should relinquish his/her designation.

NEA said there were two candidates for the BENEKO General Manager position: Engr. Melchor Licoben, who was then the Assistant General Manager and the incumbent OIC-GM at the time of his application; and Atty. Ana Maria Paz Rafael.

On April 29, 2021, the NEA Board of Administrators (NEA BOA) passed Regular Board Resolution No. 2021-47, which endorsed the candidate with the highest score in the final interview for the General Manager position of BENEKO.

The BENEKO Board of Directors, however, passed a resolution on May 19, 2021, rejecting the NEA BOA's resolution and reiterating the previous BENEKO Board resolution which appointed Engr. Licoben as their GM.

The NEA BOA found the action of BENEKO without valid reason, thus it appointed Atty. Rafael as the new BENEKO general manager based on the NEA memorandum regarding the process of selection and hiring of an EC general manager, through RB Resolution No. 2021-71.

On September 21, 2021, the NEA BOA placed under 90-day preventive suspension the seven members of the BENEKO Board and Engr. Licoben, pending investigation of the administrative case filed against them. The NEA BOA also appointed Atty. Omar Mayo of the Legal Services Office as project supervisor of BENEKO.

"Contrary to the arguments of the suspended BENEKO officials that the case filed against them is premature because of the pendency of the petition for certiorari filed by Licoben before the Court of Appeals on September 01, 2021, the same is without any factual and legal bases. Although such judicial recourse to question the validity of our RB Resolution No. 2021-71 is correct and in accordance with PD 269 as amended, however, up to this time, NEA has not received any

Resolution from the Court of Appeals relative to said petition, restraining this Office from further acting on the issues brought to us, thus the implementation of their suspension is imperative," the NEA said.

The NEA also noted that it is within its powers to impose disciplinary and preventive measures upon erring members of the EC Board of Directors, its officers and employees. It also cited the supervisory powers of the NEA over ECs under Section 4-A of Presidential Decree No. 269, as amended by Republic Act No. 10531.

"In the meantime, NEA continues to investigate the officials of BENECON on their administrative liabilities based on the adverse audit observations/findings on the Financial and Management Audit of the EC covering the period June 01, 2014 to December 31, 2017 conducted by our NEA EC Audit Department which were considered gravely adverse to good management," the NEA said.

The NEA ECAD also conducted a subsequent audit on BENECON covering the period January 01, 2018 to December 31, 2020 which were also considered gravely adverse to good management. The audit findings showed the BENECON Board and Management have been continuously defying the NEA Memorandum and Guidelines in the grant of benefits and allowances.

Among the audit observations and recommendations that were disregarded on the previous NEA Audit Reports and the audit findings against BENECON officials were the investment of P160 million with the Rural Electrification and Financing Corporation; amending the terms of payment with MN Electro Industrial Supply and Services, Inc. for the supply of materials, labor, and handling for the electrification project of 79 sitios amounting to P87.2 million; and the procurement of steel poles from Industrial Galvanizers Corp. of the Philippines totaling P7.6 million. ###

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