



BYLAWS OF LAW N° 28749
GENERAL LAW OF RURAL ELECTRIFICATION



PUBLISHED IN THE OFFICIAL GAZETTE EL PERUANO ON THURSDAY
MAY 3, 2007

**BYLAWS OF LAW N° 28749,
GENERAL RURAL ELECTRIFICATION LAW
SUPREME DECREE N° 025-2007-EM**

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

By Law N° 28749, was approved the General Rural Electrification Law, in order to establish the normative framework for the promotion and efficient and sustainable development of electrification in rural, isolated and frontier localities of the country;;

The Second Final Disposition of the mentioned Law rules that the Executive Power will dictate the bylaws by Supreme Decree countersigned by the Ministers of Energy and Mines and Economics and Finance;

In accordance with incise 8) of Article 118 of the Political Constitution of Peru;

DECREES:

Article 1.- Approval of the Bylaws of the General Rural Electrification Law

Approve the Bylaws of Law N° 28749, General Rural Electrification Law, which comprises sixteen (16) Titles, eighty one (81) articles, two Transitory Dispositions, four (4) Final Dispositions and one (1) Annex of Definitions, which is part of this Supreme Decree.

Article 2.- Countersignature and time in force

This Supreme Decree will be countersigned by the Minister of Energy and Mines and by the Minister of Economics and Finance, and will be in force as of the day following its publication in the Official Gazette El Peru.

Issued in the Government House, in Lima, on the second day of the month of May of the year two thousand and seven

ALAN GARCÍA PÉREZ President of the Republic
JUAN VALDIVIA ROMERO Minister of Energy and Mines
LUIS CARRANZA UGARTE Minister of Economics and Finance



**BYLAWS OF LAW N° 28749,
GENERAL RURAL ELECTRIFICATION LAW**

TITLE I

GENERAL DISPOSITIONS

Article 1.- References and supplementary application

For the effects of this Bylaws the following are the definitions for words or abbreviations

Law	General Rural Electrification Law	Ley General de Electrificación Rural
Law N° 28832	Law to Ensure the Efficient Development of the Electric Generation	Ley para Asegurar el Desarrollo Eficiente de la Generación Eléctrica
Bylaws:	Bylaws of Law N° 28749, General Rural Electrification Law	Reglamento Ley N° 28749 Ley General de Electrificación Rural
ECL	Electrical Concessions Law	Ley de Concesiones Eléctricas
BECL	Bylaws of Electrical Concessions Law	Reglamento Ley de Concesiones Eléctricas
Ministry	Ministry of Energy and Mines	Ministerio de Energía y Minas
DGE	General Electricity Directorate	Dirección General de Electricidad
DEP	Executive Projects Directorate	Dirección Ejecutiva de Proyectos
DGAEE	General Directorate of Environmental Energy Affairs	Dirección General de Asuntos Ambientales Energéticos
FONER	Unit of the Project Management Funds for Contests for Improvement of the Rural Electrification	Unidad de Gerencia del Proyecto Fondos Concursables para el Mejoramiento de la Electrificación Rural
ADINELSA	Empresa de Administración de Infraestructura Eléctrica S.A.	Empresa de Administración de Infraestructura Eléctrica S.A.
OSINERGMIN	Supervising Organization for Investment in Energy and Mines	Organismo Supervisor de la Inversión en Energía y Minería
PROINVERSION	Agency for the Promotion of Private Investment	Agencia de Promoción de la Inversión Privada
FONAFE	National Fund for Financing of the Entrepreneurial Activity of the State	Fondo Nacional de Financiamiento de la Actividad Empresarial del Estado
SER	Rural Electrical Systems	Sistemas Eléctricos Rurales
PNER	National Plan for Rural Electrification	Plan Nacional de Electrificación Rural

Any mention to Articles or Titles without indicating the norm to which they correspond, should be understood as referred to this Bylaws. For the aspects which are not developed in the Bylaws, should additionally be applied what is regulated by ECL and BECL.

Article 2.- Object Rule the normative framework for the promotion and efficient and sustainable development of rural zone, isolated and frontier localities of the country.

Article 3.- Principles The action of the State in matters of rural electrification are ruled by the following principles:

1. Completion:

The rural electrification projects' development are of preferential social interest and are comprised in the framework of the action coordinated with



other sectors of the National Government, Regional and Local Governments, establishing common objectives in search of the social economical development of the rural zones, isolated and frontier localities.

2. Subsidies:

In rural electrification the State assumes its subsidiary role through the execution of the SER within the framework of the efficient use of the economical resources as well as its role of promoter of the private participation.

3. Sustainable Development:

Contribute to the social economical development, promoting the productive use of electricity with the consequent increase of the demand, in order to contribute to guarantee the economic sustainability of the SERs, without affecting the environment or the right of the future generations to use it for their own requirements.

4. Adaptation and Technological Diversification

Efficient use of the economic and energy resources, considering the characteristics of supply and projection of the consumption in each rural zone, isolated or frontier localities of the country, making possible the use of viable economical alternatives and giving special attention to the use of the renewable energy resources.

Article 4.- Rural Electrical Systems (SER)

The SERs include the domestic connections with any type of metering equipment. Likewise, in addition to the distribution networks, they may include the transmission networks, as well as generation distributed through the electric distribution networks. Each SER will be classified by OSINERGMIN according to the Typical Distribution Sectors which DGE will establish.

TITLE II

PERFORMANCE OF THE STATE IN THE RURAL ELECTRIFICATION

Article 5.- Executive Action

The Ministry, through DEP, as national competent organization in rural electrification, develops the planning in coordination with the Regional, Local Governments and the programs, projects, entities, institutions and investors interested in contributing to raise the rural electrification coefficient, administers the resources assigned for the electrification, with the exception to those destined to promoting the private investment, elaborates studies, executes the works under their responsibility and make the transfer for its administration, operation and maintenance to the electricity distribution concessionaire companies or to ADINELSA, according to what is ruled by Title XII of the Bylaws.



The Ministry, through DEP and the electricity distribution concessionaire companies which are State property, may sign cooperation agreements in order that the latter will execute rural electrification works.

The executing function of the State in the rural electrification, in accordance to what is established in Article 6 of the Law, also includes the execution of SER by Regional Governments, Local Governments and other entities.

In the normative framework in force regarding decentralization, DEP may co-finance the execution of projects submitted by the Regional Governments or Local Governments, in the framework of the agreements signed for that purpose.

Article 6.- Promoting Performance

The Ministry, through DGE, develops the promoting function for rural electrification.

The adjudication processes for the participation of private parties are conducted by PROINVERSION.

Promotion includes the phases of of planning, design, investment, construction, operation and maintenance of SERs, as well as the rural electrification projects co-financed by international agreements.

Among the mechanisms for the promotion of the private investment in rural electrification will be considered the subsidy of the investment for the execution of SERs. That subsidy only may be granted as result of a promotion process of the private investment in rural electrification conducted by PROINVERSION and developed according to what is established in Title XIV of the Bylaws

TITLE III

FUNDS FOR RURAL ELECTRIFICATION

Article 7.- Economical Resources for Rural Electrification

- 7.1 The resources to which refer literals c), d), e), f), g) and h) of Article 70 of the Law, discounting the Specific Amount destined to the Compensation Mechanism for Isolated Systems to which refers Article 30 of Law N° 28832, will be transferred by the corresponding entities to the Ministry and this will transfer the resources for their administration to DEP or other executing units in what corresponds.

The specific amount to which refers the previous will be transferred directly by the Contributing Companies to the Reception Companies, according to what is established in the Bylaws of the Mechanism for



Compensation for Isolated System which was approved by Supreme Decree N° 069-2006-EM, or its modifications.

- 7.2 For transfer of funds to the Ministry as required in literal e) of Article 7 of the Law, from the Income Tax, the Ministry, within the three (3) first months of the year, will inform Superintendencia Nacional de Administración Tributaria — SUNAT, with respect to the generating, transmitting and distributing companies of the electricity sub-sector, that during the previous fiscal year for which they have to pay taxes have conducted activities.

SUNAT, within the thirty (30) working days following the due date to submit the declaration and make payment of regularization of Income Tax corresponding to the previous fiscal year for which they have to pay taxes will inform the National Directorate of the Public Treasury of the Ministry of Economics and Finance with respect to the amounts of Income Taxes paid by those companies which will permit to calculate the four thirtieths (4/30) of the income obtained as Income tax according to what is established in literal e) of Article 7 of the Law. In those companies that in addition to generating, transmitting and/or distributing energy are dedicated to other productive and/or extraction activities, the Ministry must determine a factor to be applied on the Income Tax paid by those companies, which will be obtained from the structure of costs of the Annual Manufacturing Statistics of the Ministry of Production, which will be informed to SUNAT, for the effect of determining the amount of the tax on income paid by those companies which will be used to calculate the resources to which literal e) of Article 7 of the Law refers

Once the resources to which literal e) of Article 7 of the Law refers, same will be transferred by the General Directorate of Public Treasury (Dirección General de Tesoro Público) of the Ministry of Economics and Finance, in six installments, which will be made effective each month between the months of June to November each year.

- 7.3 The contribution to which refers incise h) of Article 7 of the Law will constitute a charge that the electricity companies will apply in their invoices to the final, free and regulated users. The electricity companies will make the corresponding transfer within forty (40) days after the monthly collection to the Ministry or the Reception Companies, in the latter case in accordance with what is established in the Procedure of Application of the Mechanism of Compensation for Isolated Systems which OSINERGMIN. approves.
- 7.4 With respect to the transfer of resources to which refers literal i) of Article 7 of the Law, the balances of the Balance of Executive Unit 01 of the Ministry will be transferred each year to DEP for their corresponding incorporation in the budget, when they are required. That transfer will be made by Executive Unit N° 01 of the Ministry, as long as it will not affect the institutional commitments nor the normal operation of same.



7.5 The excess of the financial resources which are originated at the end of the budgetary fiscal year with the exception of those from the application of the literals a), b), f), g) and i) of Article 7 of the Law, will have to be considered in the budget of the following fiscal year.

Article 8 .- Destine and Administration

Resources destined to the promotion of the private investment will be administered by MEM in accordance with the requirements of DGE. For that purpose, DGE will elaborate the respective budget

Article 9.- Resources for Training in Productive Uses and Renewable Energies

Economical resources for education and training of the rural users, in order to promote the productive and efficient use of electricity, will be placed in the budget by MEM and will be used directly by its Executive Units or through the specialized consultants selected by them. For that purpose, MEM may coordinate with the entities of the national government in charge of promoting the social economical sustainable development of the rural zones of the country.

The economical resources for the programs of productive use of the electricity and the improved use of the renewable resources may be assigned under the modality of contest, which will be conducted by MEM with the advise of specialized entities in the subject.

In these contests will be able to participate both natural as juridical persons with experience in productive activities.

The bases of these contests will be approved by the Vice Minister of Energy of the Ministry. The pre qualification profiles, amounts of financing and other aspects related to the referred programs will be determined according to the bases.

TITLE IV

DECENTRALIZATION

Article 10.- Decentralization in matters of Rural Electrification

In accordance with the last paragraph of Article 5 of the Bylaws, in order to obtain an effective decentralization in the elaboration of plans, projects and works execution, the Ministry through its Executive Units, in coordination with the Presidency of the Ministers Council, will develop activities of training, work workshops and of technical assistance directed to consolidate the capacity of management of the Regional Governments and the Local Governments. the corresponding budget may be financed by DEP and/or Regional Governments and/or Local Governments.

The activities for training will be conducted according to the annual programs of integral training.



TITLE V

RURAL NATIONAL ELECTRIFICATION PLAN PLAN NACIONAL DE ELECTRIFICACIÓN RURAL - PNER

Article 11.- Qualification of the Rural Electrical Systems

The projects will be qualified as SER which will comply with the following criteria:

- **Technical Criteria**

In the technical assessment it is a basic condition that the project will comply with the technical standards and with those of quality applicable to rural electrification, to satisfy the projection of the demand during a horizon of twenty (20) years.

- **Social Criteria**

Social assessment will be made considering the shadow prices and that the project will have a ratio benefit/cost superior to the unit for a horizon of twenty (20) years.

- **Economical Criteria**

The economical assessment of the project will be done considering the market prices for all its cost components, the income from tariffs including the direct collection from the users and the corresponding part of the contribution of FOSE. When it corresponds, the subsidy will be determined using the Rate of Updating established in Article 79 of the ECL.

The extensions of the Rural Electrification systems will also be the object of qualification.

Article 12.- Rural National Electrification Plan — PNER

PNER constitutes a document for long term management with a planning horizon of ten (10) years, which contains the policies, objectives, strategies, methodologies, list of projects and financing sources for the orderly and development with priorities of rural electrification in the long term.

Likewise it constitutes a linking instrument for the action of the State and for the private investors that require the subsidy for the execution of the Rural Electrical Systems.

PNER will include the projects qualified according to the previous Article.

Article 13.- Criteria of priority in PNER The criteria to establish priority of the Projects qualified in PNER come from the rural electrification policy.

Priority criteria are as follows:



1. The lesser rural electrification coefficient of the province;
2. The greater index of poverty in the geographical area where the project is located;
3. The lesser proportion of subsidy required per home connection of the project.
4. Greater ratio of quantity of new home connections per amount of investment.
5. Use of renewable energies in accordance with Article 80 of the Bylaws.

Article 14.- Objectives

PNER has the following objectives:

1. Extension of the electrical frontier with the execution of the works of the Rural Electrical Systems, which will use adequate technologies which will optimize their costs, in order to obtain the greater access of the population of the rural zones, isolated and frontier localities of the country, to the electricity service.
2. Propose the execution of Rural Electrical Systems of sustainable operation.
3. Impulse through the rural electrification, the social economical sustainable development of the rural zones, isolated and frontier localities of the country, in order to improve the standard of living of the rural population fostering the promotion of the productive use of the energy.
4. Foster the use of renewable energy sources in distributed generation systems which are included in the electric distribution networks.

Article 15.- Formulation of PNER

The Ministry through DEP, is in charge of formulating PNER. which is updated annually, according to the sector policies of the Energy and Mines Sector and taking into consideration the Regional and Local Development Plans already agreed upon. and also the initiatives of the entities, programs, projects, institutions and private investors who will contribute to raise the rural electrification coefficient, increase the energy intensity and use the electric energy for productive uses

The Ministry, through DEP, will formulate and elaborate PNER according to the procedure which will be approved by Ministerial Resolution.



Article 16.- Short Term Plan

A Short Term Plan is a technical document which is the result of a Long Term Plan and which will have to be approved annually. It contains the list of projects declared as viable by the National Public Investment System, (Sistema Nacional de Inversión Pública), its geographical local, amount of investment, budget, goals and identification of the executor, to be developed during a budgetary fiscal year in rural zones, isolated and frontier localities of the country. The Short Term Plan may be reviewed whenever it is required

Article 17.- Minimum contents Short Term Plan

The Short Term, Plan will contain at least the following information:

1. List of SERs to be executed in the budgetary fiscal year, including the projects for distributed generation included in the distribution networks, transmission and distribution of electric energy
2. The location of the projects to be executed and the benefited population.
3. The amounts of projected investments and their financing source.
4. Estimated date for start and finishing of the works.
5. Identification of the entity which will execute the SERs.

Article 18.- Approval

PNER and the Short Term Plan will be approved by the Minister of the Energy and Miners Sector, in the corresponding opportunity. The approval Resolution will be published in the Official Gazette El Peruano and the Plans will be divulged in the web page of the Ministry as of the day following that publication

Article 19.- Information System of Rural Electrification (Sistema de Información de Electrificación Rural)— SIER

The Information System of Rural Electrification (Sistema de Información de Electrificación Rural) — SIER, constitutes the official statistics information source of the execution of the National Rural Electrification Plan — PNER.

The Ministry, through DEP, is responsible for the operation and for maintaining up to date the Sistema de Información de Electrificación Rural — SIER.

The SIER contains the list of projects incorporated in the Rural National Electrification Plan — PNER, and permits to make its follow up from the formulation of the project up to the commercial operation of the Rural Electrical Systems — SER.

The title bearers of the Rural Electrical Concession are obliged to submit to DEP the information which it considers pertinent for the purpose of



maintaining the SIER updated. For that purpose, the Ministry will give the corresponding ruling.

TITLE VI

TECHNICAL STANDARDS FOR THE RURAL ELECTRICAL SYSTEMS

Article 20.- Applicable Technical Standards The development of the projects and works execution of the SER, as well as their operation and maintenance should comply with the specific standards of design and construction, the National Electricity Code, the corresponding quality standards of the rural electrical service and other standards applicable to rural electrification.

Article 21.- Point of Delivery The concessionaire companies of electric distribution are obliged to permit the use of their systems or networks by par of the SERs. OSINERGMIN will establish the corresponding remuneration.

Article 22.- Quality Standard The application of the quality standard should consider the different rural realities, without raising the price of the investment and operation costs, with quality standards in accordance with the corresponding rural tariff.

TITLE VII

RURAL TARIFF

Article 23.- Connection to User What is established in el Article 13 of the Law, includes all the connection costs in the Distribution Aggregated Value (Valor Agregado de Distribución (VAD)), independent from the system of metering used, among which are the following: cable for house connection assembly, box, protection and metering systems, mast and wall when it corresponds. OSINERGMIN will incorporate in the efficient costs of the model company of the typical corresponding sector, the annual cost of the Value of Replacement to New Value (Valor Nuevo de Reemplazo (VNR)) and the cost of annual maintenance of the electrical connections, considering:

- • The number of users of the model company.
- • The costs of connection (budgets and maintenance cost of the connections) set by OSINERGMIN.
- • The useful life of the connections established in Article 163 of BECL.
- • The updating rate established by ECL.

The total costs will be expressed by unit of power taking the maximum demand established for the model company.



The connection is property of the concessionaire company for electric distribution, that company being the one responsible of the investments required for connection of new supplies within the rural electrical concession.

Article 24.- Maximum Electrical Tariff The determination of the tariff for the rural electrical service will permit the economical sustainability of the rural electrification and the permanence of the service on the part of the user. The Price at Generation Level, the Price in Busbar of the Isolated Systems and the Distribution Aggregated Value (Valor Agregado de Distribución (VAD)) for rural electrification are set according to what is established in ECL, Law N° 28832 and its respective Bylaws considering the special standards established by this Bylaws in the framework of the Law.

OSINERGMIN will include in VAD the charge for connection stated in Article 23 of this Bylaws, and will consider a fund for reposition of the SERs installations, which initially may be 0,16 of the yearly quantity of (VNR) corresponding to investment on the part of the State.

Article 25.- Rural Electrical Tariff The maximum electrical tariff determined by OSINERGMIN will be calculated according to the following procedure

OSINERGMIN will set the factors of proportion applicable to the investments made by the State, the distribution companies or other entities. The factors should reflect the proportion of the investments made by the companies or other entities.

When the investments of SER are constituted by 100% of the contributions of the state, the annual quantity of (VNR) will be multiplied by the factor of reposition fund which initially may be 0,16.

When the investments of SER are constituted by contributions of the State and of other entities, procedure will be as follows:

- The amount of retribution of the investment will be determined applying the annual quantity of VNR of the model company of the corresponding sector, the proportion factor (factor de proporción (fp)) which reflects the proportion of investment of other entities
- The amount of reposition of the investment will be determined applying to the annual quantity of VNR of the model company of the corresponding sector, the factor one discounting the factor of proportion (1-fp) and afterwards will be applied the factor of the fund of reposition which initially may be 0,16.
- Will be determined the total amount as of the sum of the amounts of retribution and of reposition, plus the costs of operation and maintenance.

On this basis is established the Distribution Aggregated Value weighed at company level (VAD-p) applicable to the SERs of that company.



OSINERGMIN will determine the means, formats and time terms for the distribution concessionaires to report the information necessary to set the mentioned factors of proportion.

Article 26.- Application of rural tariff

The applicable tariff to the users will consider the rural electrical tariff establish according to what is indicated in Article 25 of the Bylaws and the application of Law N° 28307, Law which creates the Fund of Social Compensation (Fondo de Compensación Social (FOSE)), and its modifications.

Article 27.- Typical Sector of SER

OSINERGMIN will make the classification of the SER, according to the methodology approved by DGE according to what is established in Article 145 of the BECL.

TITLE VIII

CHAPTER 1

RURAL ELECTRICAL CONCESSION

Article 28.- Rural Electrical Concession The Rural Electrical Systems will require the rural electrical concession for one or more of the following activities:

1. Electricity generation distributed through the distribution networks which will use renewable and non renewable resources,
2. Transmission of electric energy when the installations affect goods belonging to the State and/or will require the imposition of right of way by this;
3. Distribution of electric energy with the characteristic of Public Service of Electricity.

For those purposes, DEP will obtain the rural electrical concession for the Rural Electrical Systems it will execute and will maintain the title while the corresponding works are finished. Once the works are concluded the rural electrical concession will be transferred to the State owned electricity distribution concessionaire or to ADINELSA, whichever the case.

In the case of private investors, the concession will be requested by the grantee of the promotion contest for the private investment that will be developed according to what is ruled in the Title XIV of the Bylaws.

Article 29. Scope



The rural electrical concession comprises the right to execute the Rural Electrical Systems, the right to obtain the imposition of the rights of way necessary, the right to Subsidy and the obligation of developing the electric activity.

Article 30.- Requisites

For obtaining the rural electrical concession the following data and requisites have to be submitted to DGE:

1. Identification and legal address of the petitioner;
2. Descriptive memorandum and drawings of the Project;
3. Works execution schedule;
4. Project budget;
5. specification of the required rights of way;
6. Delimitation of the zone of concession;
7. Sworn declaration of the environmental impact according to what is ruled in Title IX of the Bylaws.

Obtaining rural electrification concession is not subject to payment for rights for procedure.

Article 31.- Procedure and Contract

The submission of the requisites indicated before, requesting the granting of the Rural Electrical Concession, has the characteristic of sworn declaration, the DGE having to issue the corresponding Resolution in the peremptory time term of five (5) working days.

In the Resolution will be designated the officer who, will opportunely sign the Concession Contract.

The Concession Contract will be signed by who will result the operator of the Rural Electrical Systems or grantee of the Contest, according to the mechanism employed for its assignment and which is foreseen in Titles XII and XIV of the Bylaws, respectively.

Article 32.- Exclusive characteristic

The Rural Electrical Concession has an exclusive characteristic within the concession zone. It cannot be reduced without authorization by DGE. The reduction will be given only when it will not affect the service given to any user

The Rural Electrical Concession may be extended by initiative of its title bearer, applying what is established in Article 28 of the Bylaws and without waiving the stipulations on the Rural Tariff. The extensions may be financed with the resources destined for the promotion of the investment in rural electrification, without waiving the right of the Regional and Local Governments to finance the execution of rural electrification works.



CHAPTER II

CADUCITY AND RELINQUISHMENT OF CONCESSION

Article 33.- End of concession

The Rural Electrical Concession ends by declaration of caducity or relinquishment, and in both cases the rights or assets of the concession which will be required to continue its operation will revert to the State.

Article 34.- Caducity

Caducity of the Rural Electrical Concession will be declared by Directorial Resolution. The rights and the assets if the concession will be publicly auctioned. From the value obtained in the auction, will be deducted the expenses incurred in for the administrative intervention and for the auction, and the balance will be handed over to the ex concessionaire.

The declared caducity determines the immediate ceasing of the rights of the title bearer of the Rural Electrical Concession.

The creditors of the title bearer of the concession, cannot oppose for any reason whatsoever to the previously mentioned auction.

Article 35.- Causes for caducity The rural electrical concession expires when:

1. The concessionaire abandons the operation of its installations without a justified cause for 876 hours accumulated during one calendar year;
2. The concessionaire, after having applied the corresponding fines, does not comply with its obligations of giving service in the time terms prescribed and according to the quality standards, and
3. The concessionaire does not comply with any of its contractual obligations

Article 36.- Procedure for declaring caducity

The procedure for the caducity of the concession, is as follows:

1. DGE will form a dossier, in which the cause for caducity will be supported, having to notify that fact to the concessionaire by notification registered at a notary public office;
2. The concessionaire, once the notification referring to the previous numeral is received, may make the clarifications necessary and will submit the proof considered necessary to support its rights, within a time term of ten (10) working days, as of the date of notification of the notarized letter;



3. Once the proofs are assessed by DGE the declaration of caducity, if it is in order, will be resolved by Directorial Resolution in a maximum time term of twenty (20) working days as of the notification to the concessionaire of the cause for caducity; and
4. In the Directorial Resolution declaring the caducity should be designated the respective natural or juridical persons who will be in charge of conducting the administrative intervention of the assets and rights of the concession.

Article 37.-Judiciary contradiction The title bearer of the Rural Electrical Concession may contradict the caducity declaration before the Judiciary Power in the form it corresponds. The demand should be interposed according to what is established in Law N°27584, Law that regulates the Administrative Contentious Process and its supplementary norms and modifications

In this case, the intervention will be maintained until the cause is finally resolved through judiciary resolution issued in last instance. Once the caducity of a concession is definitely sanctioned, the Ministry will proceed to auction publicly the rights and the assets of the concession.

Article 38.- Relinquishment of the Concession The concessionaire may relinquish the Rural Electrical Concession, communicating this fact to DGE with an anticipation of not less than one year.

DGE will assess the relinquishment and will issue the respective Directorial Resolution, determining the date in which this is effective.

Once the relinquishment is accepted, an intervener will be designated regarding the operations of the rural electrical concessionaire until the compliance of the respective time term and the auction of the rights and assets of the concession will take place according to what the ruling issued by DGE indicates.

TITLE IX

ENVIRONMENTAL SWORN DECLARATION

Article 39.- Environmental Sworn Declaration Only the installations of transmission which are part of SERs, should have an Environmental Impact Study. That study will be considered a Sworn Declaration and the submission of same to DGAAE of the Ministry will suffice. In the other cases, only will be required the submission to DGAAE of a Sworn Declaration of Environmental Impact.



TITLE X

FREE ACCESS TO EXISTING NETWORKS

Article 40.- Connection of SER The concessionaires operating under the regime of the ECL and the Law N° 28832, are obliged to grant the free access for the connection of the SERs to their electrical installations. The connection of SERs should not affect the technical operation of the electrical systems involved.

The free access means the obligation of making the corresponding coordination, as well as the interchange of information necessary to make the engineering studies.

The free access will have to be previously coordinated and will be subject to the payment of the costs involved in the extensions or reinforcement of the electrical installations affected and to the remuneration for the use of the installations, according to what is established by OSINERGMIN.

TITLE XI

RURAL RIGHT OF WAY

Article 41.- Imposition of Rural Right of Way The rights of way required for the SERs are of public use and preferential public interest and will be imposed by DGE.

The use of public property of of public ownership does not require payment of any compensation, only the damages that could be generated will be subject of compensation.

Article 42.- Types of Right of Way The rights of way may be:

1. For aqueducts, impoundings and other hydroelectric works;
2. Of electrical ducts to establish transformation substations, transmission lines and distribution networks;
3. Of occupation of private property which are vital for the installation of distribution substations for Electricity Public Service;
4. Of the telecommunications system;
5. For access roads construction; and,
6. Transit for guardianship, conservation and repair of works and installations.



Article 43 Request

The requests to impose rural right of way, will be submitted by DEP or the concessionaire, according to what corresponds, with the following data and requirements:

1. Identification and legal address of the requester;
2. Nature, type and duration of the right of way;
3. Brief technical and economical justification;
4. List of the properties to be burdened, stating the name and address of each owner or possessor, if it is known. When the owner of the property is not known or is uncertain or its address is not known, or in any other analogous situation which impedes to know, determine or locate the owner or possessor, the requester should attach sworn declaration of having made every effort to establish the identity and address of the owner or possessor;
5. Brief description of the situation and present use of the properties and the airs to be burdened;
6. Coordinates UTM (PSAD56) and drawings where the area of the right of way requested appears in each one of the properties with owners with whom there is no agreement on the amount of compensation;
7. In the cases in which there does not exist an agreement between the parties duly accredited, the requester should submit the proposal of compensation, when it corresponds.;
8. Others that the concessionaire judges necessary.

The specifications of right of way to which refers numeral 4) previously mentioned, will contain the types of right of way required and its main technical characteristics.

Article 44.- Rights

The rights of way which are established will comprise also those of access roads and buildings, both for their operation as for their maintenance.

The rights of way for electrical ducts which are imposed for the installations of transmission and distribution be them aerial and/or underground comprise:

1. Occupation of the soil surface, sub-soil and/or their airs, necessary for the installation of the substations of transformation;



2. Occupation of the surface necessary and of their airs, for the installation of the structures for support of the electrical conductors, as well as the strip of the airs or of the sub-soil in which these are installed; and,
3. Delimitation of the influence zone of the electrical duct, in case it is aerial represented by the projection on the floor of the occupation strip of the conductors, the width of which will be determined in each case, according to the dispositions of the technical norms.

Neither the owner nor the possessor of the right of way property may construct on the right of way strip imposed for underground electrical conductors, no make any class of works and/or maintain plantations, the development of which will overpass the minimum safety distances, under the lines nor in the influence zone of the electrical ducts, defined in the numeral 3) of this Article.

To use explosives in works at a distance of less than 5000 meters of the installations of a hydroelectric power plant or at 200 meters of the axis of an electrical duct will have to obtain previous authorization of the respective title bearer, showing that all the required precautions have been taken, with the previous and favorable opinion from civil defense.

Article 45.- Reparation If the request for right of way does not have the requirements stated in the previous Article it will be observed by DGE, and the procedure will continue after the observation is remedied within a time term of ten (10) working days, as of the day following the notification of the observation. In case this is not so, the request will be declared as non admissible by the DGE.

Article 46.- Notification Once the request is admitted, DGE will notify the owners or possessors with whom there is no economical agreement, attaching copy of the request and the supporting documents. The owners will have to give their opinion within a maximum time term of ten (10) working days.

When the owner of the property or the possessors not known, or its address is uncertain or unknown, or in any other analogous situation which will not make it possible to know, determine or locate the owner or possessor, the DGE will notify the requester with the model of the notification so it will be published and paid by its own account, within a time term of ten (10) working days from the notification. The publication will be made for two (2) working consecutive days in the Official Gazette El Peruano and in one of the newspapers with the largest circulation in the place where the property is located.

Within the time term of three (3) working days from the notification, the requester will submit to DGE the complete pages of the mentioned newspapers where the publication order appears.



Article 47.- Valuation The amount of the valuation will be determined for the compensation and/or indemnity, if it is the case, which should be paid by the requester if it has not been the subject of an agreement between the parties.

For that purpose, DGE will commission the valuation of the compensation and/or indemnity if it is the case for the areas to be burdened, to a specialized institution. Payment of the corresponding fees to the entity in charge of the valuation will be for payment by the requester.

Article 48.- Modification The Resolution issued by DGE establishing or modifying the right of way may only be contested in the judiciary, and only in what refers to the amount set as compensation and/or indemnity.

Article 49.- Accumulation It is correct to accumulate in one request two or more types of rights of way when they correspond to one only SER.

Article 50. Extinction DGE at the request of one of the parties or of its own right will declare the extinction of the established rights of way when:

1. Who requested the right of way does not make the respective installations or works within the time term indicated when same was imposed;
2. The owner conductor of the property where the right of way is shows that the right of way remains without use for more than twelve consecutive months;
3. Without previous authorization the right of way is destined to another purpose other than the one for which it was requested; and,
4. The finality for which the right of way was constituted is ended.

TITLE XII

TRANSFER OF WORKS AND SUPPLIES

Article 51.- Assets Are the object of transfer the SERs in an integral form or their assets components, be them installations, works, rights of way, equipment, materials, studies or any other included in the SER.

Article 52.- Opportunity

1. Integral systems

The opportunity of transfer to one integral SER should be coincidental with its commercial operation commissioning. DEP and the consignee of the transfer should agree with anticipation in order that the latter will start the commercial operation



The transfer is made independently from the accounting closing of the contract of the works, DEP maintaining the responsibility of that closing..

2. Components of systems

The transfer of some component of a SER should be in the opportunity in which it is physically concrete.

Article 53.- Transfer of works executed by DEP La transfer of works of the SERs is made gratuitously in favor of the State owned companies concessionaries of distribution or to ADINELSA, according to the criteria established in the following. For that purpose the Ministry will issue the corresponding Ministerial Resolution. The companies will register the works at appraised value, increasing its social capital and issuing the corresponding shares in the name of FONAFE or the Regional Government in case of the Regional Companies of its property. If the value of the appraisal is less than the value in books, the Ministry will register the corresponding loss due to devaluation.

The additional investments which are required to remedy deficiencies in the construction in accordance with the technical rural electrification standards and/or to extend the coverage of the Rural Electrical Service will be financed by DEP with the resources for rural electrification to which Article 7 of the Law refers. DEP will make annually the corresponding transfer according to the budget elaborated jointly by DEP and the state owned distribution concessionaire company or ADINELSA.

Article 54.- Criteria for the works transference Transfer to the consignees indicated in Article 18 of the Law, without waiving their inclusion in the process of promotion of the private investment will be made as follows:

1. The SERs will be transferred in favor of the concessionaire companies of the State while the Ministry considers it pertinent.

2. Those SER that at not delivered to the Concessionaire companies of the State, will be transferred to ADINELSA, which will celebrate agreements for operation and maintenance with the concessionaire companies of the State, which are obliged to sign them

3. For application of the previous points 1 and 2, will be employed the following criteria of assignment in descending order of priority:

a) The SER located in one province in which extension there is electricity supply by a concessionaire of distribution will be transferred or delivered by means of an agreement for operation and maintenance of that concessionaire according to what the case may be.



- b) That SER which is located in two or more provinces in the influence area of which there is electricity supply by two State owned distributing concessionaires, will be transferred or delivered by means of an agreement for operation and maintenance, to that company which is electrically related as system or has a greater ease of land access, according to what the case may be.
- c) That SER is located in a province in which area of influence there is no electricity supply by a State owned distributing concessionaire, will be transferred or delivered through agreement for operation and maintenance, to that State owned company which provides supply to another province of the same department or that which has greater ease of land access, according to what the case may be.

In any case, operation and maintenance agreements may be signed with private companies.

Article 55.- Transfer of materials For transfer of electromechanical materials and equipment to the Regional and Local Governments, the Ministry through DEP, signs with them inter-institutional agreements, having the State owned concessionaire company that is in charge of the administration, operation and maintenance, to verify the correct execution of the works, at the cost of the Regional or Local Government, according to what corresponds, and the technical standards for rural electrification. In case that the point of feeding is granted by a private company ADINELSA will be in charge at the cost of the Regional or Local Government, according to what corresponds, of verifying the correct execution of the works, according to the previously mentioned technical standards.

The Ministry will formalize the transfer of electromechanical materials and equipment through Ministerial Resolution.

Article 56°.- Criteria applicable for the operation and maintenance of the works financed and executed by the Regional and Local Government

The SERs financed and executed by the Regional and Local Governments will be subject of contracts for operation and maintenance gratuitously, signed with the State owned concessionaire electricity distributing companies or ADINELSA, according to what corresponds. For that purpose, during the execution of the works the referred companies must be in charge at the cost of Regional or Local Government according to what corresponds, of the verification the correct execution of the works according to the rural electrification technical standards.

The above mentioned contracts will have a minimum duration of thirty (30) years and should contain clauses which stipulate that the responsibility of the administration, commercialization, maintenance and operation of the SER, will be in charge of the State owned distribution concessionaire company or ADINELSA, according to what corresponds.



Article 57.- Considerations for the Calculation of the Tariff

The assets components of SER, indicated in Article 51 of the Bylaws, which are transfer directly, are those that have to be considered for purposes of calculation of the rural electrical tariff.

For the SER property of the regional and local governments given in cession of use of the concessionaire companies which are in charge of their operation and maintenance, should be comply with what is ruled in Article 25 of the Bylaws.

Article 58.- Obligations which emanate from the transfer

The receptor, regarding the assets transferred, has the obligations established in the Articles 31, 33 and 34 of the ECL.

Article 59.- Criteria for assets of ADINELSA

The criteria for the handing over in concession for exploitation, for transfer of the SER or for exploitation services owned by ADINELSA are those indicated in Title XIV of the Bylaws.

Article 60°.- Prohibition of sale in block of electrical energy for rural electrification clients The distribution concessionaire companies are prohibited to sell or invoice in block the electric energy for clients of rural electrification.

TITLE XIII

COMMITTEE FOR COORDINATION OF RURAL ELECTRIFICATION

Article 61.- Organization The Committee for Coordination of Rural Electrification is integrated by eight (8) members.

- The Vice Minister of Energy of the Ministry, who will preside it;
- The Executive Projects Director of the Ministry, who will act as Technical Secretary;
- The Electricity General Director of the Ministry,
- One representative of OSINERGMIN;
- One representative of the State owned electricity distribution concessionaire companies, designated by the National Fund for Financing of the Entrepreneurial Activity of the State (Fondo Nacional de Financiamiento de la Actividad Empresarial del Estado - FONAFE;)
- One representative designated by the Presidency of the Ministers Council (PCM);
- Chairman of the Board of ADINELSA; and,
- One representative of the Executive Unit N° 003 — FONER of the Ministry;

Article 62.- Activities The Committee for Coordination of Rural Electrification will have the following activities:



1. Coordinate opportunely with other sectors of the State which are competent in matters of promotion of the rural sector and the Regional and Local Governments, Local and Foreign Private Entities to supplement the actions towards the implementation of projects of common interest;
2. Serve as support for DEP in the development of the activities assigned by the Law and the Bylaws, channeling information of other sectors that promote the social economical development of the rural sector.

Article 63.- Sessions The Committee for Coordination of Rural Electrification will meet at least four (4) times each year and in an extraordinary fashion when it is convoked by the Chairman, at his own initiative or at the request of at least two (2) of its members.

Half of the members plus one must present in order to be able to start a meeting of the Committee for Coordination of Rural Electrification.

The Technical Secretary of the Committee for Coordination of Rural Electrification will prepare the agenda of each session, having to hand it over to the Chairman and other members of the Committee for coordination of Rural Electrification with an anticipation of three (3) working days from the date of the meeting.

Other persons may attend as guests in order to look at specific themes of the agenda, for which purpose the Secretary of the Committee for Coordination of Rural Electrification will propose to the Chairman the participation of these guests with an anticipation of seven (7) calendar days before the meeting

In absence of the Chairman of the Committee for Coordination of Rural Electrification, will act in that capacity the Executive Projects Director of the Ministry and will act as: Secretary whomever the Committee for Coordination of Rural Electrification designates among the members present.

Article 64.- Adoption of Agreements of the Committee for Coordination of Rural Electrification In order that the agreements required are valid, they will require in all cases the vote in agreement of more than half the members of the Committee for coordination of Rural Electrification

In case of a tie, the Chairman will have the deciding vote.

Article 65.- Registry of Agreements The agreements adopted in the sessions of the Committee for Coordination of Rural Electrification should be written down in minutes, which will be drawn up by the Technical Secretary of the Committee for Coordination of Rural Electrification, including the original agenda of the main conclusions of the session which took place. Once it is signed by all the persons in attendance, a copy of the minutes will be distributed among its members..



The Technical Secretary of the Committee for Coordination of Rural Electrification will be in charge of the filing and custody of the minutes.

TITLE XIV

PROMOTION OF THE PRIVATE INVESTMENT IN RURAL ELECTRIFICATION

Article 66.- Promotion of the private investment Promotion of the private investment will be made by the following modalities:

1. Contests;
2. Private initiative; and,
3. Other modalities which are included in the ruling norms

Article 67.- Destiny of Resources The subsidy which corresponds for the promotion of the private investment, will be directed to the financing of

1. Elaboration of studies for Projects.- Those which take the initiative in the elaboration of the Project should cover with their own budget at least seventy percent (70%) of the studies costs;
2. Acquisition of equipment and materials required per SER; and,
3. Construction of the SER.

Article 68.- Objective It is the purpose of private investment promotion to cover the following activities related to rural electrification.

1. Elaboration of the studies for development of the SERs;
2. Integral development of SERs, which includes elaboration of the studies, works execution, operation and maintenance of same;
3. Operation and maintenance of SERs property of ADINELSA, or transfer of same.

Article 69.- Preference of Private Participation The entities of the State that take the initiative of the qualified SER projects presentation, should make the request to DGE, that will assess the option of making the promotion contest of the private investment of integral development of the SERs which is conducted by PROINVERSION.

If there are no private investors interested, those projects may be executed by the entity that has presented them.

Article 70.- Decentralized Processes Contests for elaboration of studies for the development of SERs, may be in charge of Regional and Local Governments.



Article 71.- Contests The contests which are conducted by PROINVERSION are ruled by the corresponding norms for private investment promotion.

The variable of decision for the contests destined to the integral development of SERs is the lesser subsidy, the referential amount of which will be determined by the Ministry.

The decision variable for the contests destined for the operation and maintenance of the SER property of ADINELSA, or transfer of same will be that which the Ministry determines.

Article 72.- Coordination PROINVERSION will coordinate the contests with the Ministry, the Regional and Local Governments, in order that their execution will be in accordance with the priority established in PNER, except those derived from the private initiative which have priority.

Article 73.- Participation of State owned companies According to what is indicated in Article 21 of the Law, the concessionaires for electricity distribution which are State property under ECL, may participate under equal conditions with the private property companies in the contests to execute the activities stated in Article 63° of the Bylaws.

Article 74.- Private initiative for Projects The Projects which arise from the private initiative should be qualified as SER by the Ministry, in accordance with what ruled in Article 11 of the Bylaws.

Article 75.- Concurrence of initiatives In case there is concurrence of initiatives for contests, the Ministry, through DGE, will select the best alternative taking into consideration the following criteria:

- Best use of the natural resources
- The least time term for execution of the works

If the equal terms persist, the one with the least subsidy will be selected..

The selected request will be remitted to PROINVERSION for the corresponding effect.

Article 76.- Reimbursement of the study cost If the grantee of the Contract is not the title bearer of the private initiative, it should reimburse to the title bearer the amount indicated in the budget as the cost of the study. This condition does not apply when the title bearer of the private initiative does not participate in the contest.



TITLE XV, SUPERVISION

Article 77.- Supervision. Supervision of the SERs must be made only according to the Technical Standards for the rural environment approved by DGE.

Article 78.- Responsible OSINERGMIN will supervise the compliance with the Law, the Bylaws and other norms applicable to the rural electrification and will impose the sanctions which correspond.

The Ministry, through DGE, on the basis of the report which OSINERGMIN remits, will declare the caducity of the rural electrical concession.

TITLE XVI RENEWABLE ENERGY RESOURCES

Article 80.- Promotion The Ministry will promote the investigation on the technologies for the use of renewable energy resources with the participation of the universities specialized companies and specialized institutions according with the Law N° 28546, “Law for Promotion and Use of the Non Conventional Renewable Energy Resources in isolated and frontier rural zones of the country”.

Article 81.- Priority In each project for SER located in the zones where supply from the existing networks is not feasible technically or economically, should be assessed as a priority the use of sources of renewable energy sources such as mini hydroelectric power plants, biomass, Aeolian, solar and geothermal energy.

SUPPLEMENTARY DISPOSITIONS

First.- Transfer of the works to which refers Article 53 of the Bylaws, comprises the works which have not been transferred as of the date of publication of the Law.

Second.- The cooperation, donation and/or financing agreements with international organizations, which will contribute with the extension of the electrical frontier or the rural electrification of the country, will be ruled by their own stipulations.

Promotion, negotiation and delivery by the Executive Unit N° 03 of MEM, of subsidies in money or in goods, in favor of private companies or State owned companies of private right, is considered as a modality of promotion for the private investment in rural electrification according to the effect of Article 22 of the Law and Title XIV of the Bylaws.



TRANSITORY DISPOSITIONS

First.- Quality Technical Standard for Rural Electrical Services

Within the time term of ninety (90) calendar days as of the publication of the Bylaws, the Quality Technical Standard for Rural Electrical Services should be approved, by Supreme Decree countersigned by the Minister of Energy and Mines.

Second.- Design and Construction Technical Standards

Within the time term of twelve (12) months counted as of the publication of the Design and Construction Technical Standards applicable to the systems based on renewable energies for rural electrification, by Directorial Resolution of DGE.

Third.- Transfer of assets of ADINELSA

Within the time term of six (6) months as of the publication of the Bylaws, ADINELSA, In coordination with the DGE and PROINVERSION, should analyze and determine those SER of its property that may be the object of a private investment promotion contest for which it will coordinate with the Special Committee of Private Investment (Comité Especial de Promoción de la Inversión Privada) the execution of the respective contest or bidding.

Fourth.- Electrical Tariffs

Within the time term of twelve (12) months as of the publication of the Bylaws, OSINERGMIN from the tariff of the Typical 5 and the costs of regulated connection, will approve the rural electrical tariff at the level of each company applying the factors of proportion indicated in Article 25 of the Bylaws, in order that it will be for application in what remains of the actual tariff period in progress

Fifth.- Norms and Procedures

Within the time term of ninety (90) calendar days as of the publication of the I Bylaws, the Ministry will approve the Procedure for elaboration of PNER through Ministerial Resolution.

Sixth.- Supervision of Rural Systems

As of the publication of this Bylaws, the present Typical Distribution Sectors 4 and 5 will be supervised according to the technical standards for rural electrification.

Seventh.- Requirement of Environmental Sworn Declaration and procedure for Rights of Way for existing SER

Within a time term of six (6) months as of the publication of the Bylaws, the concessionaires operating the present Typical distribution Sectors 4 and 5 should adapt to what is ruled in Title IX of the Bylaws.

Eighth.- Information System of Rural Electrification (Sistema de Información de Electrificación Rural — SIER)



The Ministry, through DEP, will implement progressively in the time term of two (2) years, an Information System of Rural Electrification (Sistema de Información de Electrificación Rural — SIER).

Ninth.- Adaptation of the Studies

The final studies which to the date of publication of the Law have been elaborated with standards on rural electrification different to the ones approved by the Ministry will have to be adapted to them, before the works are executed.

Tenth.- Accounting System for Costs for SER

Within the time term of twelve (12) months as of the date of publication of the Bylaws, the State owned concessionaire distribution companies will implant an Accounting System for Costs for SERs

Eleventh.- Review of the Reposition Factor

The factor of the fund for reposition to which refers Article 25 of the Bylaws, will be revised in the opportunity of the setting of the rural tariff. The reposition factor which serves as basis for the calculation of the factor of the fund of reposition of the VNR will be calculated taking as a reference a useful life of 30 years and the passive interest rate of the market (annual effective interest rate) of local currency established by the Superintendence of Banking and Insurance (Superintendencia de Banca y Seguros) which is in force on the last working day of the previous year regarding the tariff setting.

The factor of the fund for reposition for application to VNR results from dividing the factor of reposition over the factor of the annual rate of VNR, the latter calculated according to what is indicated in the ECL.

Twelfth.- Approval of the PNER

The projects included in PNER approved in 2006, will be considered qualified for the effects of the Law and the present Bylaws.

Thirteenth.- Competence of FONER

While the FONER is under execution, the projects requested by the State owned distribution companies which overpass 1000 house connections and which have a consumption of more than 22 kW.h monthly, will be executed by the Executing Unit N° 003.

Fourteenth.- Application of numeral 7.2 of Article 7 of the Bylaws for the year 2007.

For the application of numeral 7.2 of Article 7 of the Bylaws during the year 2007, extend exceptionally the time term indicated in the first paragraph of that norm in forty five (45) calendar days.

FINAL DISPOSITIONS

First.- Transfer of materials and equipment to electricity distribution concessionaire companies or to ADINELSA.

Without waiving what is stipulated in Article 55 of the Bylaws, the Ministry may transfer electromechanical materials and equipment from the ones



available to the State owned electrical distribution companies or to ADINELSA under the modality of donation

Second.- Reception of works and installations constructed by FONCODES.

The State owned distribution companies will receive for free the works and installations which have been constructed for FONCODES, with the previous technical and legal reparations that entity must make applying the technical and legal standards on the rural electrification.

Third.- Issuing of supplementary norms to these Bylaws.

DGE will issue the supplementary norms which are required for the application of the present Bylaws.

Fourth.- Application contribution to which refers literal h) of Article 7 of the Law.

The contribution of the users of electricity to which refers literal h) of Article 7 of the Law, will be applicable as of the day following the enforcement of this Bylaws. The electric companies responsible for their collection should conduct the pertinent procedures in order to incorporate this contribution as an addition item in their invoicing.



ANNEX OF DEFINITIONS

1. Rural Electrical Concession: Is the title which habilitates the granting by the State to the natural or juridical, private or public, local or foreign, for the development of the electrical activities in the Rural Electrical Systems and to enjoy the benefits the Law grants.

2.Subsidy: Is the mechanism destined to contribute to the economical sustainability of the Rural electrical Systems. May be granted by means of the handing over of money in cash for the integral elaboration, execution of studies for projects and/or the delivery of assets and electrical installations which comprise a SER.