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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17TH) CONGRESS
First Regular Session



House Bill No. 3594

Introduced by: Rep. Bernadette Herrera-Dy

EXPLANATORY NOTE

The 1987 Constitution (Article 2, Section 24) fully recognizes the vital role of communications in nation building and provides for the emergence of communications structures suitable to the needs and aspirations of the nation.

This bill seeks to mandate the creation of a Philippine Exclusive International Gateway. Such gateway shall act as the single transit point of all communications, including data, voice, messages, SMS, among others, inward to the Philippines or outward to other countries.

The use of exclusive international gateways have been successful in other countries, specifically Australia, the United States, Pakistan, Zambia, Bangladesh, Kenya, among many others. Such gateways have enabled efficient use and management of international communications, provided higher levels of security of communications, supplied a higher quality of international calls to and from the Philippines, and served as a venue for substantial revenue generation for the government.

The costs of establishing, maintaining and operating such gateways entail significantly high costs and require a specialized degree of technical know-how and expertise. Following the example of other countries, this bill seeks to mandate the creation of the Philippine Exclusive International Gateway through a Public-Private Partnership with a private partner that is knowledgeable and experienced in the establishment, maintenance and operation of such gateways.

Considering the pursuant to its charter, Executive Order No. 546, the National Telecommunications Commission is empowered to regulate the telecommunications industry. One of its powers, under Section 15, paragraph k of the said Executive Order, permits the Commission to perform such other functions as may be provided for by law. Hence, this bill mandates the National Telecommunications Commission (NTC), the primary governmental agency in charge of the regulation of the telecommunications industry, to seek the proper partner through the bidding procedures already established by law. The NTC would also empowered by this bill to exercise supervisory powers over the gateway, specifically as to the technical aspects of use, traffic management, and data security. Finally, the NTC is also

1 empowered, pursuant to its charter, to establish the benchmark rates by which the license
2 fees, tariffs and termination fees shall be based.
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5 As a revenue generator, this bill recognizes the significant role of priority industries in the
6 provision of employment and influx of foreign direct investments. In reverence thereto, this
7 bill provides a tariff exemption for all industries listed in the annual Investments Priority Plan
8 with regards to their usage, if any, of the exclusive international gateway.
9

10 Hence this bill seeks to mandate the establishment of the Philippine Exclusive International
11 Gateway, to be implemented by the NTC accordingly.
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13 In view of the foregoing considerations, approval of this bill is highly and earnestly
14 recommended.
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BERNADETTE HERRERA-DY

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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (15TH) CONGRESS
First Regular Session

House Bill No. **3594**

Introduced by: Rep. Bernadette Herrera-Dy

AN ACT MANDATING THE CREATION OF A PHILIPPINE EXCLUSIVE
INTERNATIONAL GATEWAY, PRESCRIBING THE MANNER OF CREATION,
CONTROL AND TAXATION THEREOF

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

SECTION 1 *Short Title.* This Act shall be known as the “Exclusive International Gateway Act of 2017”

SECTION 2. *Declaration of Policy.* The State recognizes the vital role of the telecommunications industry in national growth and development.

The state likewise recognizes taxation provides the lifeblood of the nation, through which the agencies of the government continue to operate and with which the state effects its functions for the benefit of its constituents.

Towards this end, the State shall protect the mutual interests of consumers and service providers through a provision of a modernization of communication systems through an exclusive international gateway for all incoming and outgoing international communications.

SECTION 3. *Definition of Terms.* - For purposes of this Act, the following terms are hereby defined:

- a) “BIR” - refers to the Bureau of Internal Revenue.
- b) “Call” – refers to a call (including any message conveyed by means of a telecommunication system) which originates in the telecommunication system of any service provider in the Philippines, conveyed by the license via the exclusive international gateway facility and which terminates in a telecommunication system in a country other than the Philippines, or vice versa.

- 1 c) "Exclusive International Gateway or EIG" – refers to the exclusive
2 telecommunications transit portal through which all incoming and outgoing
3 international calls and data transmissions will pass.
4
5 d) "Exclusive International Gateway (EIG) Facility" – refers to the telecommunication
6 systems and telecommunication facilities owned, installed, maintained, operated and
7 used by the Licensee for the purposes of providing international telecommunications
8 services.
9
10 e) "License" – refers to the authority issued by the NTC to a private corporation to
11 establish, operate and maintain the exclusive international gateway.
12
13 f) "Licensee" - refers to the private corporation selected to establish, operate and
14 maintain the exclusive international gateway, following the issuance of a license by
15 the NTC.
16
17 g) "License Fee Income" – refers to the total annual invoiced revenue of the Licensee
18 (less discounts, value added taxes and other indirect taxes) derived from
19 telecommunications service providers.
20
21 h) "Message" – refers to any sound, signal, sign or image conveyed by means of the
22 exclusive international gateway.
23
24 i) "NEDA" - refers to the National Economic and Development Authority.
25
26 j) "NTC" - refers to the National Telecommunications Commission.
27
28 k) "Telecommunications Service Providers" – refers to any public switched
29 telecommunication service licensee or any entity licensed to provide similar services,
30 mobile cellular telecommunication service licensee or any entity licensed to provide
31 similar services under the laws of the Philippines. These shall include fixed line
32 operators, cellular service operators, etc.
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35 **SECTION 4. *Establishment of Exclusive International Gateway.*** An exclusive international
36 gateway shall be established pursuant to the provisions of this Act. Such gateway shall serve
37 as the exclusive telecommunications transit portal through which all incoming and outgoing
38 international calls, messages and data transmissions will pass, either from sources overseas
39 towards the Philippines, or from sources within the Philippines directed overseas.
40

41 The exclusive international gateway shall be created through a public-private partnership,
42 joint venture or build-operate-transfer agreement between a qualified private corporation and
43 the Philippine government, subject to the procedures and processes under existing laws.
44

45 The selection of the qualified private corporation shall be accomplished through a public
46 bidding process in accordance with the Build-Operate-Transfer Law, its implementing rules
47 and regulations, the Joint Venture Guidelines, and the Procurement Law.
48

49 **SECTION 4. *Pre-qualification, Bids and Awards Committee.*** For purposes of solicitation,
50 bidding and pre-qualification of bidders to the Exclusive International Gateway, the NTC

1 shall create a Pre-qualification, Bids and Awards Committee (PBAC) composed of the
2 following:

- 3
- 4 1. The commissioner of the NTC;
- 5 2. One technical officer knowledgeable with the technical aspects or requirements of the
- 6 project, assigned by the NTC;
- 7 3. One technical finance officer, assigned by the NTC;
- 8 4. One management or operation officer, assigned by the NTC;
- 9 5. The Administrator of the NEDA or his representative;
- 10 6. Two representatives from the private sector involved in the telecommunications
- 11 industry.
- 12 7. One representative from the PPP Center of the Philippines (formerly the BOT
- 13 Center).
- 14 8. One representative from the Commission on Audit.
- 15

16 Those enumerated under numbers six to eight above shall be deemed non-voting
17 observers of the PBAC.

18
19 The PBAC shall be responsible for all aspects of the pre-bidding and bidding process in
20 the case of solicited proposals, and for the comparative bidding process, in the case of
21 Unsolicited Proposals, including, among others, the preparation of the bidding/tender
22 documents, publication of the invitation to pre-qualify and bid, pre-qualification of
23 prospective bidders, conduct of pre-bid conferences and issuance of supplemental notices,
24 interpretation of the rules regarding the bidding, the conduct of bidding, evaluation of
25 bids, resolution of disputes between bidders, and recommendation for the acceptance of
26 the bid and/or for the award of the project.

27
28 The PBAC shall, following all processes and procedures mandated by existing laws on
29 public bidding, shall render an award to one private entity, who shall be responsible for
30 the establishment and operation of the exclusive international gateway.

31
32 The NTC shall, pursuant to the award, issue a license to the private partner authorizing
33 the latter to establish and operate the exclusive international gateway for a period of time
34 as will be determined by the implementing rules and regulations of this Act. **Provided,**
35 that the initial term of the license shall be for a period of twenty-five years (25 years)
36 from the issuance of such license.

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39 **SECTION 5. Responsibilities of the Private Partner.** Subject to the provisions of this Act
40 and its implementing rules and regulations, the licensed private entity to which the
41 establishment and operation of the exclusive international gateway is awarded, shall:

- 42
- 43 1. Establish the complete international gateway infrastructure, including all the
- 44 investment required to set up the equipment and earth stations.
- 45 2. Establish the interconnection with the telecommunications service providers and in
- 46 the Philippines and international telecommunications service providers.
- 47 3. Operate and maintain the exclusive international gateway at its own cost subject to the
- 48 period provided for in the award to the private entity and the implementing rules and
- 49 regulations of this Act.

4. Maintain a database of communications that have utilized the exclusive international gateway.
5. Provide the NTC, the BIR, and this Congress of periodic reports regarding the use of and traffic within the gateway, and other pertinent data.
6. Train selected Filipino nationals in the technical aspects of the operation, maintenance and processes of the exclusive international gateway.

SECTION 6. *Responsibilities of the NTC.* The NTC shall be the focal agency in the initiative provided for in this Act, pursuant to its mandate under Executive Order No. 546, Section 15. The responsibilities of the NTC pursuant to this Act shall include:

1. Supervise the technical aspects of the operations and maintenance of the exclusive international gateway, specifically as to the manner of use, flow of traffic of communication, and security of data and communication.
2. Establish benchmark figures for tariff purposes, such as inbound and outbound monthly minutes and termination fees.
3. Select Filipino nationals for training through on-the-job training programs with the private partner.
4. Assess and critique the efficiency of the private partner in its operations and maintenance.

SECTION 7. *License Fees.* In consideration for the grant of the license, the Licensee shall pay to the NTC a fixed license fee in respect to the initial term of the license in an amount to be determined by the NTC as determined in the Implementing Rules and Regulations of this Act.

An annual variable license fee shall also be paid by the licensee to the NTC in an amount equal to 0.5% or one-half of one percent of the audited license fee income as defined in this Act.

SECTION 8. *Tariffs on use of the Exclusive International Gateway.* The use of the exclusive international gateway shall be taxed at established rates per minute of use, regardless of whether the communications originate through fixed lines, cellular phones, data or computer systems, etc., and termination fee charges at rates to be established by the BIR and the NTC.

The BIR and the NTC shall jointly prepare a report to be submitted to the Congress on the tariff generation of the exclusive international gateway.

SECTION 8. *Tariff-Exempt Industries.* In recognition of the business and investment generation of certain industries, the industries listed in the annual Investments Priority Plan (IPP) shall enjoy tariff exemption on the usage of the exclusive international gateway for the duration of such priority on such industries as provided for in the annual IPP.

SECTION 8. *Executive Officers Charged with Execution of this Act.* The Commissioner of the National Telecommunication Commission shall be the executive officer charged with carrying out the provisions of this Act, with authority to assign the direct executive

1 control of the enforcement of its provisions and the rules and regulations that may
2 hereafter be promulgated in accordance therewith to such representatives, bureau,
3 office or service as said Commissioner may designate.

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5 **SECTION 9. *Separability Clause.*** In the event that any provision of this Act is declared
6 unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of the remainder
7 of the provisions of this Act shall not be affected thereby.

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9 **SECTION 10. *Repealing Clause.*** All laws, presidential decrees, letters of instructions,
10 executive orders, administrative orders, rules, regulations, and other issuances or parts
11 thereof which are contrary to or inconsistent with the provisions of this Act are hereby
12 revoked, repealed or modified accordingly.

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14 **SECTION 11. *Effectivity.*** This Act shall take effect fifteen (15) days following the
15 completion of its publication in any two (2) national newspapers of general circulation.

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17 *Approved,...*
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