

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**EIGHTEENTH CONGRESS
First Regular Session**

House Bill No. 3962



**Introduced by Reps. Genaro M. Alvarez, Jr., Manuel T. Sagarbarria and
Gerardo P. Valmayor, Jr.**

**AN ACT GRANTING GAMBOA HERMANOS FARMWORKERS MULTIPURPOSE
COOPERATIVE A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE, OWN, MANAGE AND MAINTAIN DISTRIBUTION SYSTEMS FOR THE
CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE ISLAND
OF NEGROS, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The enactment of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act" set out the promise of affordable basic electricity for the Filipino people as the law allowed open access, attracting key players from both the public and private sector to enter the electric distribution market.

In the island of Negros, there currently are five main power distribution utilities which service areas of the island - CENECO, NONECO, NOCECO, NORECO I and NORECO II. The is composed of 2 provinces (Negros Occidental and Negros Oriental), 1 highly urbanized city (Bacolod City), 18 component cities, 38 municipalities, and 1219 barangays. According to a 2015 census, the total population of the entire island is 2,205,058, comprised of approximately 821,000 households. Unfortunately, of the 821,000 households, a total of 88,892 or 10.8% of the households are still unenergized or do not receive any formal electricity. Moreover, despite the progress and development throughout the island, households in Negros are still constrained to paying expensive electricity and still experience recurring blackouts, due primarily to poor infrastructures, outdated systems, and operational inefficiencies. All existing distribution utilities, although some attain a AAA mark at times, still are among the bottom echelon of the existing distribution utilities in the country notwithstanding the high and growing demand of electricity in the Island.

This bill seeks to provide such a dependable and efficient electric power distribution system for the island of Negros by granting the franchise to operate to Gamboa Hermanos Farmworkers Multipurpose Cooperative in the Provinces of Negros Occidental and Oriental. It seeks to address the issue of high electricity prices and recurring blackouts through a regime of efficient and quality service delivery to end-users. Finally, it seeks to require standards that the grantee must attain in order to secure an effective partnership between the Government and the grantee, as well as maintain a high benchmark of the promised provided facility.

In view of the foregoing, the immediate passage of this bill is earnestly sought.



GENARO M. ALVAREZ, JR.



MANUEL T. SAGARBARRIA



GERARDO P. VALMAYOR, JR.

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

1 **Section 1. Nature and Scope of the Franchise** - Subject to the provisions of the
2 Constitution and applicable laws, rules and regulations, there is hereby granted to
3 Gamboa Hermanos Farmworkers Multipurpose Cooperative, hereunder referred to
4 as the grantee, its successors or assigns, a franchise to construct, install,
5 establish, operate, own, manage and maintain, in the public interest and for
6 commercial purposes, Distribution Systems for the conveyance of electric power to
7 end-users in the Island of Negros, composed of the Provinces of Negros Occidental
8 and Oriental.

9
10 **Section 2. Manner of Operation of Facilities** - All electric distribution facilities,
11 lines and systems for electric services installed, established, operated, leased,
12 owned, or managed by grantee, its successors or assigns, shall be operated and
13 maintained at all times in a superior manner, and it shall be the duty of the
14 grantee, its successors or assigns, whenever required to do so by the Energy
15 Regulatory Commission (ERC), or the Department of Energy (DOE), or any other
16 government agency concerned, to modify, improve and change such facilities or
17 systems in such a manner and to such extent as the progress in science and
18 technology, and improvements in electric power distribution services may render
19 reasonable and proper.

1 Whenever practicable and for purposes of maintaining order, safety and aesthetics
2 along highways, roads streets, alleys or rights-of-way, the grantee may allow the
3 use of free space in its poles, facilities or rights-of-way by interested parties upon
4 reasonable compensation to the grantee considering cost incurred to accommodate
5 and administer the use of the grantee's facilities by such parties. The ERC shall
6 decide in case of dispute or disagreement between parties.

7
8 **Section 3. Authority of the Energy Regulatory Commission (ERC)** - The
9 grantee shall secure from the ERC, or any other government agency which has
10 jurisdiction over the operation of the herein grantee, the necessary certificates of
11 public convenience and necessity and other appropriate permits and licenses for
12 the construction and operation of its electric power distribution system. The ERC,
13 or any government agency having jurisdiction over the grantee's operation, may
14 allow the grantee to expand to surrounding areas, not covered by its franchise area,
15 whenever public interest so requires.

16
17 **Section 4. Ingress and Egress** - For purposes of constructing, installing, erecting
18 and maintaining poles or other supports for said wires or other power conductors
19 for the purpose of laying and maintaining underground wires, cables or other
20 conductors, it shall be lawful for the grantee, its successors or assigns, with the
21 prior approval of the Department of Works and Highways (DPWH) or the local
22 government unit (LGU) concerned as may be appropriate, to make excavations of
23 lay conduits in any of the public places, highways, streets, lanes, alleys, avenues,
24 sidewalks or bridges of the said provinces, cities and/or municipalities; Provided,
25 however, that a public place, highway, street, land, alley, avenue, sidewalk or
26 bridge disturbed, altered or changed by reason of erection of poles or other support
27 or the underground laying of wires, other conductors or conduits, shall be repaired,
28 replaced or properly restored at the expense of the grantee, its successors or
29 assigns, in accordance with the standards set by the DPWH or the LGU concerned.
30 Should the grantee, its successors or assigns, after the ten (10) day notice from the
31 said authority, fail, refuse, or neglect to repair or replace any part of public place,
32 road, highway, street, land, alley, avenue, sidewalk, or bridge altered, changed or
33 distributed by the said grantee, its successors or assigns, then the DPWH or the
34 LGU concerned shall have the right to have the same repaired and placed in good
35 order and condition at double expense to be charged against the grantee, its
36 successors or assigns.

1 **Section 5. Responsibility to the Public** - The grantee shall supply electricity in
2 the least cost manner. In the interest of the public good and as far as feasible and
3 whenever required by the ERC, the grantee shall modify, improve or change its
4 facilities and equipment for the purpose of providing efficient and reliable service
5 and reducing electricity cost. The grantee shall charge reasonable and just power
6 rates for its services to all types of consumers in order that businesses and
7 industries shall be able to compete.

8
9 The grantee shall have the obligation to provide open and nondiscriminatory access
10 to its electric power distribution system and services for any end-user within its
11 franchise area consistent with Republic Act No. 9136, otherwise known as the
12 "Electric Power Industry Reform Act of 2001". The grantee shall not engage in any
13 activity that would constitute an abuse of market power such as, but not limited to,
14 unfair trade practices, monopolistic schemes, and any other activities that would
15 hinder competitiveness of business and industries.

16
17 **Section 6. Rates for Services** - The retail rates to its captive market and charges
18 for the distribution of electric power by the grantee to its end-user shall be
19 regulated by and subject to the approval by the ERC or its legal successor.

20
21 The grantee shall identify and segregate in its bill to end-users the components of
22 the retail rate pursuant to Republic Act No. 9136, unless otherwise amended. Such
23 rates charged by the grantee to end-users shall be made public and transparent.
24 The grantee shall implement lifeline rates to marginalized end-users as mandated
25 under Republic Act No. 9136.

26
27 **Section 7. Promotion of Consumer Interests** - The grantee shall establish a
28 consumer desk that will handle consumer complaints and ensure adequate
29 promotion of consumer interests. The grantee shall act with dispatch on all
30 complaints brought before it.

31
32 **Section 8. Right of the Government** - A special right is hereby reserved to the
33 President of the Philippines, in times of war, rebellion, public peril, calamity,
34 emergency, disaster or disturbance of peace and order, to temporarily take over
35 and operate the facilities of the grantee in the interest of public safety, security and
36 public welfare, or to authorize the temporary use and operation thereof by any

1 agency of the government, upon due compensation to the grantee for the use of
2 said facilities during the period when they shall be so operated.

3
4 **Section 9. Right of Eminent Domain** - Subject to the limitations and procedures
5 prescribed by law, the grantee is authorized to exercise the right of eminent domain
6 insofar as it may be reasonably necessary for the construction, installation,
7 establishment, and efficient operation and maintenance of Distribution Systems.
8 The grantee is authorized to install and maintain its poles, wires and other facilities
9 over and across public property, including streets, highways, forest reserves and
10 other similar property of the Government of the Philippines, its branches or any
11 instrumentalities. The grantee may acquire such private property as is needed for
12 the realization of the purposes for which this franchise is granted; Provided, that
13 proper condemnation proceedings shall have been instituted and just
14 compensation paid.

15
16 **Section 10. Warranty in Favor of the National and Local Governments** - The
17 grantee shall hold the national, provincial, city and municipal governments of the
18 Philippine free from all claims, accounts, demands or actions arising out of
19 accidents or injuries, whether to property or to persons, caused by the
20 construction, installation, operation and maintenance of the power distribution
21 system of the grantee.

22
23 **Section 11. Liability to Damages** - The grantee shall be liable to any injury and
24 damage arising from or caused to persons or property by reason of any defective
25 construction under the franchise or of any neglect or omission to keep its poles and
26 wires in safe condition.

27
28 **Section 12. Sale, Lease, Transfer, Usufruct, etc.** - The grantee shall not lease,
29 transfer, grant the usufruct of, sell nor assign this franchise or the rights and
30 privileges acquired hereunder to any person, firm, company, corporation or other
31 commercial or legal entity, nor merge with any other corporation or entity, nor shall
32 the controlling interest of the grantee be transferred, whether as a whole or in parts
33 and whether simultaneously or contemporaneously, to any person, firm, company,
34 corporation or entity without the prior approval by the Congress of the Philippines;
35 Provided, that Congress shall be informed of any lease, transfer, grant of usufruct
36 sale or assignment of franchise or the rights or privileges acquired within sixty (60)

1 days after the completion of said transaction; Provided, further, that failure to
2 report to Congress such change of ownership shall render the franchise *ipso facto*
3 revoked; Provided, finally, that any person or entity to which this franchise is sold,
4 transferred or assigned, shall be subject to the same conditions, terms, restrictions
5 and limitations of this Act.

6
7 **Section 13. Equality Clause** - In the event that any competing individual,
8 partnership or corporation shall receive a similar permit or franchise with terms
9 and/or provisions more favorable than those herein granted or which tend to place
10 the herein grantee at any disadvantage, such terms and/or provisions shall be
11 deemed part hereof and shall operate equally in favor of the herein grantee:
12 Provided, that any term and/or provision herein granted which are not contained
13 in other franchises that may hereafter be granted shall likewise be enjoyed by the
14 future grantees.

15
16 **Section 14. Term of Franchise** - The franchise shall be for a term of twenty-five
17 (25) years from the date of the effectivity of this Act.

18
19 **Section 15. Applicability Clause** - The grantee shall comply with and be subject
20 to the provisions of Commonwealth Act No. 146, as amended, otherwise known as
21 the "Public Service Act" and Republic Act No. 9136.

22
23 **Section 16. Reportorial Requirements** - The grantee shall submit an annual
24 report to the Congress of the Philippines, through the Committee on Legislative
25 Franchises and Energy of the House of Representatives and the Committee on
26 Public Services of the Senate, on its compliance with the terms and conditions of
27 this franchise and on its operations on or before April 30 of the succeeding year.

28
29 **Section. 17. Fine** - Failure of the grantee to submit the requisite annual report to
30 Congress shall be penalized by a fine of Five thousand Pesos (P5,000.00) per
31 working day on non-compliance. The fine shall be collected by the ERC from the
32 delinquent franchisee grantee separate from the reportorial penalties imposed by
33 the ERC. The collected funds shall accrue to the monitoring fund of the ERC in line
34 with its supervisory and regulatory functions. The reportorial compliance certificate
35 issued by Congress shall be required before any application for permit or certificate
36 is accepted by the ERC.

1 **Section 18. Separability Clause** - If any of the sections or provisions of this Act is
2 held unconstitutional or invalid, the other parts or provisions hereof which are not
3 affected thereby shall continue to be in full force and effect.

4
5 **Section 19. Repeatability and Nonexclusivity Clause** - This franchise shall be
6 subject to amendment, alteration or repeal by the Congress of the Philippines when
7 the public interest so requires and shall not be interpreted as an exclusive grant of
8 the privileges herein provided for.

9
10 **Section 20. Publication** - This Act shall be published, through the initiative of the
11 grantee, fifteen (15) days after this Act is signed by the President of the Philippines
12 or has lapsed into law.

13
14 **Section 21. Effectivity Clause** - This Act shall take effect fifteen (15) days from
15 the date of its publication in at least two (2) newspapers of general circulation in
16 the Philippines.

17
18 Approved.