

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

EIGHTEENTH CONGRESS

First Regular Session

4855



INTRODUCED BY: **Rep. Michael John R. Duavit**

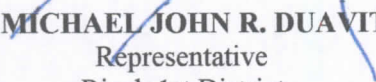
**AN ACT RENEWING FOR ANOTHER TWENTY FIVE YEARS THE FRANCHISE GRANTED TO
CRUZ TELEPHONE COMPANY, INC. UNDER REPUBLIC ACT 7961**

EXPLANATORY NOTE

Cruz Telephone Company, Inc (CRUZTELCO) is a 100% Filipino-owned corporation established in 1973. It was organised primarily “ To carry on the business of providing basic and enhanced telephone and other telecommunications services in and between provinces, cities, municipalities in the Philippines and other countries and territories...” It was granted a legislative franchise to operate nationwide under Republic Act 7961, authorised “to establish, operate, manage, lease, maintain and purchase telecommunication systems, including mobile, cellular and wired and wireless communications systems, fibre optics, satellite transmit and receive systems and other telecommunication systems and their value added services such as but not limited to transmission of voice, data, facsimile, control signs, audio and video, information service bureau, and all other telecommunications systems technologies as are at present available or will be made available through technical advances or innovations in the future, or construct, acquire, lease and operate or manage transmitting and receiving stations and switching stations, for local services, lines, cables or systems, is or are convenient or essential to efficiently carry out the purpose of this franchise.” To be capable of addressing the present and future needs of its present and future subscribers, it has increased its authorised capital to P500 Million. It has nineteen (19) branches nationwide ready to serve, with current exchanges in Dumaguete City, Bayawan and Guihulngan in Negros Oriental, Tagbilaran City, Jagna and Tubigon in Bohol, Kalibo in Aklan, Boracay in Malay Aklan, Dipolog City, Dapitan City, Pagadian City, Mojave and Aurora in Zamboanga Del Sur, Sindangan in Zamboanga Del Norte, Jimenez and Calamba in Misamis Occidental, Siniloan in Laguna, Real in Quezon and Taytay in Rizal.

CRUZTELCO, has brought people and community closer by providing quality and innovative communications services, responsive to the socio-economic development needs of the country.

In view of the foregoing, the approval of this bill is earnestly recommended


MICHAEL JOHN R. DUAVIT
Representative
Rizal, 1st District

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

EIGHTEENTH CONGRESS

First Regular Session

4855

INTRODUCED BY: **Rep. Michael John R. Duavit**

**AN ACT RENEWING FOR ANOTHER TWENTY FIVE YEARS THE FRANCHISE GRANTED TO
CRUZ TELEPHONE COMPANY, INC. UNDER REPUBLIC ACT 7961**

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

Section 1. *Nature and Scope of Franchise.*- Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to CRUZTELCO, here under referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, in the Philippines and other countries and territories, wire and/or wireless telecommunications systems including mobile cellular, copper, fiber optics, satellite transmit and receive systems, switches and their value-added services such as the transmission of voice, data, facsimile, control signs, audio and video, information services and all other telecommunications systems technologies as are at present available or will be made available through technological advances or innovations in the future; and/or construct, acquire, lease and operate, or manage transmitting and receiving stations, lines, cables or systems as are convenient or essential to efficiently carry out the purpose of this franchise.

Section 2. *Manner of Operation of Stations or Facilities.*- The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies of existing stations or other stations which may be established by law, without in any way diminishing its own privilege to use its assigned wavelengths or frequencies and the quality of transmission or reception thereon as should maximise rendition of the grantee's services and/or the availability thereof.

Section 3. *Authority of the National Telecommunications Commission.*-The grantee shall secure from the National Telecommunications Commission (NTC) a Certificate of Public Convenience and Necessity or the appropriate permits and licenses for the construction, installation and operation of its telecommunications systems/facilities. In issuing the certificate, the NTC shall have the power to impose such conditions relative to the construction, operation, maintenance or service level of the telecommunications systems. The NTC shall also have the authority to regulate the construction and operation of the grantee's telecommunications systems. The grantee shall not use any frequency in the radio spectrum without authorisation from the NTC. Such certificate shall state the areas covered and the date the grantee shall commence the service. The NTC however, shall not unreasonably withhold or delay the grant of such authority, permit or license.

Section 4. *Excavation and Restoration works.* For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be lawful for the grantee, its successors or assignees, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks or bridges of the province, cities and/or municipalities: Provided, however, that a public place, road, highway, street lane alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of erection of poles or other supports or the underground laying of wires, other conductors or conduits shall be repaired and replaced in workmanlike manner by said grantee, its successors or assignees, in

accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assignees, after the ten (10) -day notice from the said authority, fail, refuse, or neglect to repair or replace any part of the public place, road, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed in good order and condition at the double the amount spent for such repair or replacement, to be charged against the grantee, its successors or assignees.

Section 5. Responsibility to the Public. The grantee shall conform to the ethics of honest enterprise and not use its stations/facilities for obscene or indecent transmission, or for dissemination of deliberately false information, or willingly misrepresentation or assist in subversive or treasonable acts.

The grantee shall operate and maintain all its stations, lines, cables, systems and equipment for the transmission and reception of messages, signals and pulses in a satisfactory manner at all times, and as far as economical and practicable, modify, improve or change stations, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

Section 6. Rate for Services.- The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as non regulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the NTC or its legal successor. The rates to be charged by the grantee shall be unbundled, separable and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidise the unregulated ones.

Section 7. Right of the Government.- The radio spectrum is a finite resource that is part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn any time after due process.

A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order: to temporarily take over and operate the stations, transmitters, facilities or equipment of the grantee; to temporarily suspend the operation of any station, transmitter, facility, or equipment in the interest of public safety, security and public welfare; or to authorise the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee for the use of said stations, transmitters, facilities or equipment during the period when these shall be so operated.

Section 8. Term of Franchise.- This franchise shall be in effect for a period of twenty five years (25) from the date of effectively of this Act, unless sooner cancelled. This franchise shall be deemed Ipsy facto revoked in the event the grantee fails to comply with any of the following conditions: (a) Commence operations within one (1) year from the approval of its operating permit by the NTC; (b) Commence operations with there (3) years from the effectively of this Act; and (c) Operate continuously for two (2) years.

Section 9. Acceptance of Compliance.- Acceptance of this franchise shall be given in writing to the Congress of the Philippines, through the Committee on Legislative Franchises of the HHouse of Representatives and the Committee on Public Service of the Senate, within sixty (60) days from the effectively of this Act. Upon giving such acceptance, the grantee shall exercise the privilege granted under this Act. No acceptance shall render the franchise void.

Section 10. Commitment to Provide and Promote the Creation of Employment Opportunities.- The grantee shall create employment opportunities and shall allow on the job trainings in their franchise operation: Provided, that priority shall be accorded to the residents in the area where their principal office is located: Provided further, that the grantee shall follow the applicable labour standards and allowance entitlement under the existing labour laws, rules and regulations and similar issuances: Provided, finally, that the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually.

Section 11. Bond.-The grantee shall file a bond with the NTC in the amount that it shall determine to guarantee compliance with and fulfilment of the conditions under which this franchise is granted. If after three (3) years from the date of the approval of its permit by the NTC, the grantee shall have fulfilled the conditions, the bond shall be cancelled by the NTC. Otherwise, the bond shall be forfeited in favour of the government and the franchise *Ipsy facto* revoked.

Section 12. Right of Interconnection.- The grantee is hereby authorised to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated and maintained by any other duly authorised person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under such terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to the review and modification of NTC.

Section 13. Gross Receipts.- The grantee, its successors or assignees, shall keep a separate account of the gross receipts of the business transacted by it and shall furnish the Commission on Audit (COA) and the National Treasury a copy of such account not later than the thirty first (31st) day of January of each year for the preceding twelve (12) months.

Section 14. Books and Accounts.- The books and accounts of the grantee, its successors or assignees, shall always be open to the inspection of the COA and its duly authorised representatives. It shall be the duty of the grantee to submit to the COA two (2) copies of the quarterly reports on the gross receipts, the net profits and the general condition of the business.

Section 15. Warranty in Favor of the National and Local Governments -The grantee shall hold the national, provincial, city and municipal governments of the Philippines free from all claims, liabilities, accounts, demands or actions arising out of accidents causing injury to persons or damage to properties, during the construction or operation of the stations, transmitters, facilities or equipments of the grantee.

Section 16. Sale, Lease, Transfer, Usufruct or Assignment of Franchise.- The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired there under to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor shall transfer the controlling interest of the grantee, simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines.

Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of the said transaction. Failure to report to Congress such change of ownership shall render the franchise *Ipsy facto* revoked. Any person or entity to which this franchise is sold, transferred or assigned shall be subject to the same conditions, terms, restrictions and limitations of this Act.

Section 17. Dispersal of Ownership.- In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of operations: Provided, that in cases where public offer of shares is not applicable, establishment of cooperatives operating public utilities must be implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

Section 18. Reportorial Requirement.- The grantee shall submit an annual report to the Congress of the Philippines through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of every year during the term of its franchise. The reportorial

compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

Section 19. *Penalty Clause.*- Failure of the grantee to submit the requisite annual report to Congress shall be penalised with a fine of five hundred pesos (P500.00) per working day of non-compliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC.

Section 20. *Equality Clause.*- Except for taxes and customs duties, any advantage, favor, privilege, exemption or immunity granted under the other existing franchises, or which may hereafter be granted, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: Provided, that the foregoing shall neither apply to nor affect the provisions of telecommunications franchises concerning territory covered by the franchise, the life span of the franchise or the type of service authorized by the franchise.

Section 21. *Separability Clause.*- If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

Section 22. *Repealability and Nonexclusivity Clause.*- This franchise shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privilege herein provided for.

Section 23. *Repealing Clause.*- All laws, decrees, executive orders, rules and regulations or parts or provisions thereof which are not consistent with this Act are hereby repealed, amended or modified accordingly.

Section 24. *Effectivity.*- This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation

Approved,