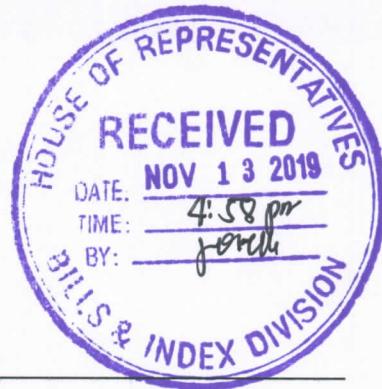


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



COMMITTEE REPORT NO. 78
NOV 13 2019

Submitted by the Committee on Legislative Franchises on _____

Re: House Bill No. 5491

Recommending its approval in substitution of House Bill No. 4855

Sponsors: Representatives Franz E. Alvarez, Michael John R. Duavit, Raymond Democrito C. Mendoza, Faustino "Inno" A. Dy V, Rolando M. Valeriano, Gil "Kabbarangay" A. Acosta Jr., Luis Raymund "Lray" F. Villafuerte, Jr., Christian S. Unabia, Enrico A. Pineda, Deogracias Victor "DV" B. Savellano, Alfredo A. Garbin, Jr., Alfred D. Vargas, Eduardo "Eddie" R. Gullas, Faustino Michael Carlos T. Dy III, Henry S. Oaminal, and Xavier Jesus D. Romualdo

MR. SPEAKER:

The Committee on Legislative Franchises to which was referred House Bill No. 4855, authored by Rep. Michael John R. Duavit, entitled:

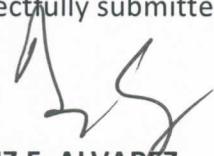
"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO CRUZ TELEPHONE COMPANY, INC. UNDER REPUBLIC ACT 7961"

has considered the same and recommends that the attached House Bill No. 5491, entitled:

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO CRUZ TELEPHONE COMPANY, INC. UNDER REPUBLIC ACT 7961, ENTITLED 'AN ACT GRANTING TO CRUZ TELEPHONE COMPANY, INC. (CRUZTELCO), A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM THROUGHOUT THE PHILIPPINES'"

be approved in substitution of House Bill No. 4855 with Reps. Michael John R. Duavit, Raymond Democrito C. Mendoza, Faustino "Inno" A. Dy V, Rolando M. Valeriano, Gil "Kabbarangay" A. Acosta Jr., Luis Raymund "Lray" F. Villafuerte, Jr., Christian S. Unabia, Enrico A. Pineda, Deogracias Victor "DV" B. Savellano, Alfredo A. Garbin, Jr., Alfred D. Vargas, Eduardo "Eddie" R. Gullas, Faustino Michael Carlos T. Dy III, Henry S. Oaminal, Xavier Jesus D. Romualdo, and Franz E. Alvarez, as authors thereof.

Respectfully submitted:



FRANZ E. ALVAREZ
Chairman
Committee on Legislative Franchises

**THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY**

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 5491
(In Substitution of House Bill No. 4855)

Introduced by REPS. MICHAEL JOHN R. DUAVIT, RAYMOND DEMOCRITO C. MENDOZA, FAUSTINO "INNO" A. DY V, ROLANDO M. VALERIANO, GIL "KABARANGAY" A. ACOSTA JR., LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR., CHRISTIAN S. UNABIA, ENRICO A. PINEDA, DEOGRACIAS VICTOR "DV" B. SAVELLANO, ALFREDO A. GARBIN, JR., ALFRED D. VARGAS, EDUARDO "EDDIE" R. GULLAS, FAUSTINO MICHAEL CARLOS T. DY III, HENRY S. OAMINAL, XAVIER JESUS D. ROMUALDO, and FRANZ E. ALVAREZ

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO CRUZ TELEPHONE COMPANY, INC. UNDER REPUBLIC ACT 7961, ENTITLED "AN ACT GRANTING TO CRUZ TELEPHONE COMPANY, INC. (CRUZTELCO), A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM THROUGHOUT THE PHILIPPINES"

7 SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the
8 Constitution and applicable laws, rules and regulations, the franchise granted to CRUZ
9 TELEPHONE COMPANY, INC., hereunder referred to as the grantee, its successors or
10 assignees, to construct, install, establish, operate and maintain for commercial purposes
11 and in the public interest, in the Philippines and between the Philippines and other
12 countries and territories, wire and/or wireless telecommunications system including mobile
13 cellular, copper, fiber optics, satellite transmit and receive systems, switches and their
14 value-added services such as the transmission of voice, data, facsimile, control signs, audio
15 and video, information services and all other telecommunications system technologies as
16 are at present available or will be made available through technological advances or
17 innovations in the future; or construct, acquire, lease, and operate, or manage transmitting
18 and receiving stations, lines, cables, or systems as are convenient or essential to efficiently
19 carry out the purpose of this franchise, is hereby renewed for another twenty-five (25) years
20 from the effectivity of this Act.

21 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or facilities of the
22 grantee shall be constructed and operated in a manner as will, at most, result only in the
23 minimum interference on the wavelengths or frequencies of existing stations or other

1 stations which may be established by law, without in any way diminishing its own right to
2 use its assigned wavelengths or frequencies and the quality of transmission or reception
3 thereon as should maximize rendition of the grantee's services or the availability thereof.

4 SEC. 3. *Authority of the National Telecommunications Commission.* – The grantee
5 shall secure from the National Telecommunications Commission (NTC) a Certificate of Public
6 Convenience and Necessity or the appropriate permits and licenses for the construction,
7 installation and operation of its telecommunications systems or facilities. In issuing the
8 certificate, the NTC shall have the power to regulate and impose such conditions relative to
9 the construction, operation, maintenance, or service level of the telecommunications
10 systems or facilities. Such certificate shall state the areas covered and the date the grantee
11 shall commence the service. The grantee shall not use any frequency in the radio spectrum
12 without authorization from the NTC. The NTC, however, shall not unreasonably withhold or
13 delay the grant of such authority, permit or license.

14 SEC. 4. *Excavation and Restoration Works.* . – For the purpose of erecting and
15 maintaining poles or other supports for said wires or other conductors for the purpose of
16 laying and maintaining underground wires, cables, or other conductors, it shall be lawful for
17 the grantee, its successors or assignees, with the prior approval of the Department of Public
18 Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be
19 appropriate, to make excavations or lay conduits in any of the public places, roads,
20 highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, or
21 municipalities: *Provided, however,* That a public place, road, highway, street, lane, alley,
22 avenue, sidewalk, or bridge disturbed, altered, or changed by reason of erection of poles or
23 other supports or the underground laying of wires, other conductors or conduits, shall be
24 repaired and replaced in workmanlike manner by said grantee, its successors or assignees,
25 in accordance with the standards set by the DPWH or the LGU concerned. Should the
26 grantee, its successors or assignees, after the ten (10) day notice from the said authority,
27 fail, refuse, or neglect to repair or replace any part of public place, road, highway, street,
28 lane, alley, avenue, sidewalk, or bridge altered, changed or disturbed by the said grantee, its
29 successors or assignees, then the DPWH or the LGU concerned shall have the right to have
30 the same repaired and placed in good order and condition, and charge the grantee, its

1 successors or assignees at double the amount of the costs and expenses for such repair or
2 replacement.

3

4 SEC. 5. *Responsibility to the Public.* - The grantee shall conform to the ethics of
5 honest enterprise and not use its stations or facilities for obscene or indecent transmission,
6 or for dissemination of deliberately false information, or willful misrepresentation, or assist
7 in subversive or treasonable acts.

8

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

14

15 The grantee shall improve and extend its services in areas not yet served, and in
16 hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk
17 Reduction and Management Council, or its legal successor, in coordination with the NTC.

18

19 The grantee shall also improve and upgrade its equipment, facilities and services, in
20 order to ensure effective compliance with the objectives of Republic Act No. 10639 or the
21 "Free Mobile Disaster Alerts Act".

22 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications services of
23 the grantee, except the rates and charges on those that may hereafter be declared or
24 considered as non-regulated services, whether flat rates or measured rates or variation
25 thereof, shall be subject to the approval of the NTC or its legal successor.

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

29

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

9 SEC. 8. *Term of Franchise*. – This franchise shall be extended and in effect for a period of
10 twenty-five (25) years from the date of the effectivity of this Act, unless sooner revoked or
11 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to
12 operate continuously for two (2) years.

13
14 SEC. 9. *Right of Interconnection*. – The grantee is hereby authorized to connect or
15 demand connection of its telecommunications systems to other telecommunications
16 systems installed, operated, and maintained by any other duly authorized person or entity
17 in the Philippines for the purpose of providing extended and improved telecommunications
18 services to the public, under the terms and conditions mutually agreed upon by the parties
19 concerned. This right shall be subject to review and modification by the NTC.
20

21 SEC. 10. *Mobile Number Portability*. – The grantee shall provide mobile number
22 portability (MNP) and its implementing mechanism, and shall interconnect, directly or
23 indirectly, with the infrastructure, facilities, systems, or equipment of other
24 telecommunications franchise grantees. It shall not install network features, functions, or
25 capabilities that will impede the implementation of a nationwide MNP system. The NTC
26 shall issue rules and regulations for this purpose, the effectivity of which shall commence
27 upon applicability with other telecommunications franchise grantees .

28 SEC. 11. *Warranty in Favor of the National and Local Governments*. - The grantee
29 shall hold the national, provincial, city, and municipal governments of the Philippines free
30 from all claims, liabilities, accounts, demands, or actions arising out of accidents causing

1 injury to persons or damage to properties, during the construction or operation of the
2 stations, transmitters, facilities, or equipment of the grantee.

3

4 *SEC. 12. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* – The
5 grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the
6 rights and privileges acquired thereunder to any person, firm, company, corporation, or
7 other commercial or legal entity, nor merge with any other corporation or entity, nor the
8 controlling interest of the grantee be transferred, simultaneously or contemporaneously, to
9 any person, firm, company, corporation, or entity without the prior approval of the
10 Congress of the Philippines. Congress shall be informed of any sale, lease, transfer, grant of
11 usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of
12 the merger or transfer of the controlling interest of the grantee, within sixty (60) days after
13 the completion of the said transaction. Failure to report to Congress such change of
14 ownership shall render the franchise *ipso facto* revoked. Any person or entity to which this
15 franchise is sold, transferred, or assigned shall be subject to the same conditions, terms,
16 restrictions, and limitations of this Act.

17

18 *SEC. 13. Dispersal of Ownership.* - In accordance with the constitutional provision to
19 encourage public participation in public utilities, the grantee shall continue to offer to
20 Filipino citizens at least thirty percent (30%) or a higher percentage that may hereafter be
21 provided by law of its common stocks in any securities exchange in the Philippines within
22 five (5) years from the renewal of its franchise: *Provided*, That in cases where public offer of
23 shares is not applicable, other methods of encouraging public participation by citizens and
24 corporations operating public utilities must be implemented. Noncompliance therewith
25 shall render the franchise *ipso facto* revoked.

26

27 *SEC. 14. Commitment to Provide and Promote the Creation of Employment
28 Opportunities.* – The grantee shall create employment opportunities and shall allow on-the-
29 job trainings in their franchise operation: *Provided*, That priority shall be accorded to the
30 residents of the place where their principal office is located: *Provided further*, That the
31 grantee shall follow the applicable labor standards and allowance entitlement under
32 existing labor laws, rules and regulations and similar issuances: *Provided, finally*, That the

1 employment opportunities or jobs created shall be reflected in the General Information
2 Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually.

3

4 *SEC. 15. Reportorial Requirement.* – The grantee shall submit an annual report to the
5 Congress of the Philippines, through the Committee on Legislative Franchises of the House
6 of Representatives and the Committee on Public Services of the Senate, on its compliance
7 with the terms and conditions of the franchise and on its operations on or before April 30 of
8 every year during the term of its franchise.

9

10 The annual report shall include an update on the roll-out, development, operation
11 and/or expansion of business; audited financial statements; latest GIS officially submitted to
12 the SEC, if applicable; certification of the NTC on the status of its permits and operations;
13 and an update on the dispersal of ownership undertaking, if applicable.

14

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

17

18 *SEC. 16. Fine.* – Failure of the grantee to submit the requisite annual report to
19 Congress shall be penalized with a fine in the amount of One million pesos (P1,000,000.00)
20 per working day of noncompliance, the effectivity of which shall commence upon
21 applicability with other telecommunications franchise grantees: *Provided*, That in the
22 interim, the grantee shall be liable to pay the fine of Five hundred pesos (P500.00) per
23 working day of noncompliance. The fine shall be collected by the NTC from the delinquent
24 franchise grantee separate from the reportorial penalties imposed by the NTC, and the
25 same shall be remitted to the Bureau of Treasury.

26

27 *SEC. 17. Equality Clause.* – Any advantage, favor, privilege, exemption, or immunity
28 granted under existing franchises, or which may hereafter be granted, upon prior review
29 and approval of Congress, shall become part of this franchise and shall be accorded
30 immediately and unconditionally to the herein grantee: *Provided*, That the foregoing shall
31 neither apply to nor affect the provisions of telecommunications franchises concerning
32 territorial coverage, the term, or the type of service authorized by the franchise.

1
2 SEC. 18. *Repealability and Nonexclusivity Clause.* – This franchise shall be subject to
3 amendment, alteration, or repeal by the Congress of the Philippines when the public
4 interest so requires and shall not be interpreted as an exclusive grant of the privilege herein
5 provided for.

6
7 SEC. 19. *Separability Clause.* – If any of the sections or provisions of this Act is held
8 invalid, all other provisions not affected thereby shall remain valid.

9
10 SEC. 20. *Repealing Clause.* – All laws, decrees, orders, resolutions, instructions, rules
11 and regulations, and other issuances or parts thereof which are inconsistent with the
12 provisions of this Act are hereby repealed, amended, or modified accordingly.

13
14 SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in
15 the Official Gazette or in a newspaper of general circulation.

16 Approved,

FACT SHEET

5491

House Bill No. _____

In substitution of House Bill No. 4855
(As approved on November 13, 2019)

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO CRUZ TELEPHONE COMPANY, INC. UNDER REPUBLIC ACT 7961, ENTITLED 'AN ACT GRANTING TO CRUZ TELEPHONE COMPANY, INC., (CRUZTELCO), A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM THROUGHOUT THE PHILIPPINES'"

Introduced by: REPS. MICHAEL JOHN R. DUAVIT, RAYMOND DEMOCRITO C. MENDOZA, FAUSTINO "INNO" A. DY V, ROLANDO M. VALERIANO, GIL "KABARANGAY" A. ACOSTA, JR., LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR., CHRISTIAN S. UNABIA, ENRICO A. PINEDA, DEOGRACIAS VICTOR "DV" B. SAVELLANO, ALFREDO A. GARBIN, JR., ALFRED D. VARGAS, EDUARDO "EDDIE" R. GULLAS, FAUSTINO MICHAEL CARLOS T. DY III, HENRY S. OAMINAL, AND XAVIER JESUS D. ROMUALDO

Committee Referral: LEGISLATIVE FRANCHISES

Committee Chairperson: REP. FRANZ E. ALVAREZ

OBJECTIVE:

- To continue the efficient and effective telecommunications service of CRUZ TELEPHONE COMPANY, INC. (CRUZTELCO) nationwide

KEY PROVISIONS:

- Renews the franchise granted to CRUZTELCO to construct, install, establish, operate and maintain wire and/or wireless telecommunications system for another twenty-five (25) years;
- Prohibits the grantee to lease, transfer, sell, grant the usufruct or assign the franchise, rights or privileges or its controlling interest without the prior approval of Congress;
- Mandates the grantee to secure the appropriate permits and licenses for the construction, installation and operation of its telecommunications systems or facilities from the NTC;
- Allows the grantee to make excavations or lay conduits for the purpose of erecting and maintaining poles, with the obligation to repair and replace in workmanlike manner any public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been disturbed, altered or changed by reason of erection of poles or other supports or the underground laying of wires;

- Mandates the grantee to conform to the ethics of honest enterprise, operate its station/s in a satisfactory manner at all times, and to extend its services in compliance with Republic Act No. 10639 or the “Free Mobile Disaster Alerts Act”;
- Gives the President of the Philippines the right to temporarily take over and operate the stations or facilities of the grantee, to temporarily suspend the operation of any station or facility in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order;
- Provides that the national and local governments shall not be held liable for any damage to properties or injury to persons caused by accidents during construction or operation of the stations;
- Prohibits the grantee from leasing, transferring, selling nor assigning the franchise or the controlling interest thereof without the prior approval of the Congress of the Philippines;
- Requires the grantee to offer to Filipino citizens at least thirty per cent (30%) of its outstanding stock in any security exchange in the Philippines or through other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law;
- Requires the grantee to create employment opportunities and allow on-the-job trainings in their franchise operation for residents of the place where any of its offices is located subject to applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances;
- Requires the grantee to submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and its operation on or before April 30 of every year;
- Imposes a fine in the amount of One million pesos (P1,000,000.00) per working day of noncompliance with the reportorial requirement of Congress, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees, and provided that in the interim, the grantee shall be liable to pay the fine of Five hundred pesos (P500.00) per working day of noncompliance; and
- Provides an equality clause which aims to grant existing and potential franchise grantees equal privilege.

RELATED LAW:

- Republic Act No. 7925 – “AN ACT TO PROMOTE AND GOVERN THE DEVELOPMENT OF PHILIPPINE TELECOMMUNICATIONS AND THE DELIVERY OF PUBLIC TELECOMMUNICATION SERVICES”

- Republic Act No. 7961 – “AN ACT GRANTING TO CRUZ TELEPHONE COMPANY, INC. (CRUZTELCO), A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM THROUGHOUT THE PHILIPPINES”