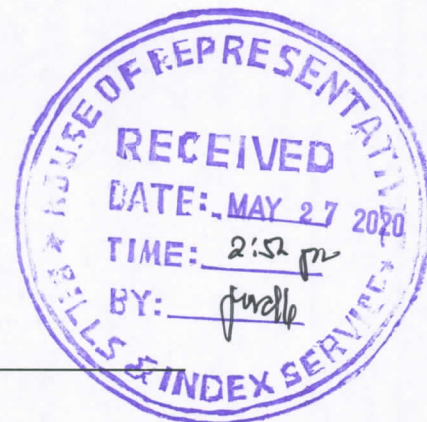


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



COMMITTEE REPORT NO. 319

Submitted by the Committee on Legislative Franchises on MAY 27 2020

Re: House Bill No. 6836

Recommending its approval in substitution of House Bill No. 6769

Sponsors: Representatives Franz E. Alvarez, Paolo Z. Duterte, Isidro T. Ungab,
Vincent J. Garcia, and Sandro Gonzalez

MR. SPEAKER:

The Committee on Legislative Franchises to which was referred **House Bill No. 6769**, introduced by Reps. Paolo Z. Duterte, Isidro T. Ungab, Vincent J. Garcia, and Sandro Gonzalez, entitled:

“AN ACT FURTHER EXTENDING THE TERM OF THE FRANCHISE GRANTED TO DAVAO LIGHT AND POWER COMPANY, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC, LIGHT, HEAT AND POWER SYSTEM IN DAVAO CITY, PANABO CITY, AND THE MUNICIPALITIES OF CARMEN, DUJALI, AND SANTO TOMAS IN THE PROVINCE OF DAVAO DEL NORTE, FOR A PERIOD OF TWENTY-FIVE (25) YEARS AND FOR OTHER PURPOSES”

has considered the same and recommends that the attached House Bill No. **6836** entitled:

“AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO THE DAVAO LIGHT AND POWER COMPANY, INC., UNDER REPUBLIC ACT NO. 8960, ENTITLED “AN ACT FURTHER EXTENDING THE TERM OF THE FRANCHISE GRANTED TO DAVAO LIGHT AND POWER COMPANY, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN DAVAO CITY AND THE MUNICIPALITIES OF CARMEN, PANABO, DUJALI, AND SANTO TOMAS, PROVINCE OF DAVAO DEL NORTE, FOR A PERIOD OF TWENTY-FIVE (25) YEARS”

be approved in substitution of House Bill No. 6769 with Reps. Paolo Z. Duterte, Isidro T. Ungab, Vincent J. Garcia, Sandro Gonzalez and Franz E. Alvarez as authors thereof.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Franz E. Alvarez', written over a horizontal line.

FRANZ E. ALVAREZ

Chairperson

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. **6836**
(In Substitution of House Bill No. 6769)

Introduced by REPS. PAOLO Z. DUTERTE, ISIDRO T. UNGAB, VINCENT J. GARCIA,
SANDRO GONZALEZ AND FRANZ E. ALVAREZ

AN ACT

EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO THE DAVAO LIGHT AND POWER COMPANY, INC., UNDER REPUBLIC ACT NO. 8960, ENTITLED "AN ACT FURTHER EXTENDING THE TERM OF THE FRANCHISE GRANTED TO DAVAO LIGHT AND POWER COMPANY, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN DAVAO CITY AND THE MUNICIPALITIES OF CARMEN, PANABO, DUJALI, AND SANTO TOMAS, PROVINCE OF DAVAO DEL NORTE, FOR A PERIOD OF TWENTY-FIVE (25) YEARS AND FOR OTHER PURPOSES"

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, the franchise granted to the Davao Light and Power Company, Inc., hereunder referred to as the grantee, its successors or assignees, under Republic Act No. 8960, to construct, install, establish, operate and maintain for commercial purposes and in the public interest, an electric, light, heat and power system for the conveyance, distribution and sale of electric power to the end users in Davao City, Panabo City, and the Municipalities of Carmen, Dujali, and Santo Tomas in the Province of Davao del Norte is hereby extended for another twenty-five (25) years after the expiration date of the franchise under RA 8960.

As used in this Act, distribution system refers to the system of wires and associated facilities, including subtransmission lines belonging to or used by a franchised distribution utility, extending between the delivery point on the national transmission system or generating facility and the metering point or facility of the end user.

SEC. 2. *Manner of Operation of Facilities.* – All electric distribution facilities, lines, and systems for electric services owned, maintained, operated, or managed by the grantee, its

successors or assignees, shall be operated and maintained at all times in the best manner, and it shall be the duty of the grantee, its successors or assignees, whenever required to do so by the Energy Regulatory Commission (ERC) or its legal successor, or the Department of Energy (DOE) or its legal successor, or any other government agency concerned, to modify, improve and change such facilities or systems in such a manner and to such extent as the progress in science and improvements in the electric power service industry may render reasonable and proper.

Whenever practicable and for purposes of maintaining order, safety and aesthetics along highways, roads, streets, alleys, or easements, the grantee may allow the use of its poles, facilities, or easements by interested parties upon reasonable compensation. The ERC shall resolve cases of dispute or disagreement between parties.

SEC. 3. *Authority of the Energy Regulatory Commission.* – The grantee shall secure from the ERC, or any other government agency which has jurisdiction over the operation of the herein grantee, the necessary certificate of public convenience and necessity and other appropriate permits and licenses for the construction and operation of its electric distribution system.

SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and maintaining poles and other supports for wires or other conductors for the laying and maintaining of underground wires, cables, pipes or other conductors, the grantee, its successors or assignees, is authorized to make excavations or lay conduits in any of the public places, roads, high-ways, streets, lanes, alleys, avenues, sidewalks, or bridges of said province, cities and/or municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or the Local Government Units (LGUs) concerned: *Provided, however,* That any 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 or replaced in workmanlike manner at the expense of the 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 public place, road, highway, street, lane, alley, avenue, sidewalk or bridge that has been disturbed, altered, or changed by the said grantee, its successors or assignees, then the DPWH or LGU concerned shall have the right to have the same repaired or replaced in good order and condition and charge the grantee, its successor or assignees at double the amount of the costs and expenses for such repair or replacement.

SEC. 5. *Responsibility to the Public.* – The grantee shall supply electricity to its captive market in the urban and rural portions of its franchise area in the least costly manner. In the interest of the public good and as far as feasible and whenever required by the ERC, the grantee shall modify, improve or change its facilities, poles, lines, systems, and equipment for the purpose of providing efficient and reliable service and reduced electricity costs. The grantee shall charge reasonable and just power rates for its services to all types of consumers within its franchised areas.

The grantee shall have the obligation to provide open and nondiscriminatory access to its distribution system and services for any end user within its franchise area consistent with Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”. The grantee shall not engage in any activity that will constitute an abuse of market power such

as unfair trade practices, monopolistic schemes, and any other activities that will hinder competitiveness of business and industries.

The exercise of the rights granted herein shall not result to stranded assets and stranded contract costs of existing and operating distribution utilities nor to unreasonable increases in costs to consumers.

SEC. 6. Rates for Services. – The retail rates and charges for the distribution of electric power by the grantee to its end user shall be regulated by and subject to the approval of the ERC or its legal successor.

The grantee shall identify and itemize in the statement of account it issues to end users the components of the retail rate pursuant to Republic Act No. 9136. Such rates charged by the grantee shall be made public and transparent. The grantee shall implement a lifeline rate to marginalized end users as mandated under Republic Act No. 9136.

SEC. 7. Protection of Consumer Interests. – The herein grantee shall establish a consumer desk that will handle consumer complaints and ensure adequate protection of consumer interests. The grantee shall act with dispatch on all complaints brought before it.

SEC. 8. Right of the Government. – 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 distribution system 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, upon due compensation to the grantee, for the use of said distribution system during the period when this shall be so operated.

SEC. 9. Right of Eminent Domain. – Subject to the limitations and procedures prescribed by law, the grantee is authorized to exercise the right of eminent domain insofar as it may be reasonably necessary for the efficient maintenance and operation of services. The grantee is authorized to install and maintain its poles, wires, and other facilities over and across public property, including streets, highways, forest reserves, and other similar property of the Government of the Philippines, its branches, or any of its instrumentalities. The grantee may acquire such private property as is actually necessary for the realization of the purposes for which this franchise is granted: *Provided*, That proper condemnation proceedings shall have been instituted and just compensation paid.

SEC. 10. Term of Franchise. – This franchise shall be for a term of twenty-five (25) years from the expiration date of the term granted under Republic Act No. 8960, unless sooner cancelled or revoked. This franchise shall be deemed *ipso facto* revoked in the event that the grantee fails to operate continuously for two (2) years.

SEC. 11. 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, demands, or actions arising out of accidents that cause injury to persons or damage to properties, during the construction, installation, operation, and maintenance of the distribution system of the grantee.

SEC. 12. Liability to Damages. - The grantee shall be liable for any injury to persons or damage to property arising from or caused by any accident by reason of any defective construction of any infrastructure built pursuant to the operation of its business under this franchise, or of any neglect or failure to keep its poles and wires in safe condition.

SEC. 13. 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 of the place where their principal office is located: *Provided further*, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor 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 Securities and Exchange Commission (SEC) annually.

SEC. 14. Sale, Lease, Transfer, Grant of 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 thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor the controlling interest of the grantee be transferred, 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 *ipso 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.

SEC. 15. 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 its operations: *Provided*, That in cases where public offer of shares is not applicable, the grantee shall apply other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law: *Provided, further*, That the dispersal of ownership by a parent company of the grantee shall be considered as compliance by the grantee with this provision. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SEC. 16. Renewal, Extension, or Revocation of Franchise. - The grantee shall apply for the renewal or extension of its franchise before its expiration date, which shall be reckoned fifteen (15) days after the publication of the franchise in the Official Gazette or in a newspaper of general circulation.

Upon reasonable notice and hearing, this franchise may be revoked by Congress when the public interest so requires or when the grantee fails to reasonably comply with regulatory standards.

SEC. 17. Equality Clause. - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereinafter be granted to power distribution franchises, 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 provisions concerning territorial coverage, the term, or the type of service authorized by the franchise.

SEC. 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 of 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 the succeeding year.

The annual report shall include an update on the roll-out, development, operation and/or expansion of business; audited financial statements; latest GIS; certification of the ERC on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

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

SEC. 19. Fine. – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of Five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the ERC from the delinquent franchise grantee separate from the reportorial penalties imposed by the ERC and the same shall be remitted to the National Treasury.

SEC. 20. Applicability of Existing Laws. – The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146, or the “Public Service Act” as amended and Republic Act No. 9136.

SEC. 21. 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 privileges herein provided for.

SEC. 22. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 23. Repealing Clause. – All laws, decrees, orders, resolutions, instructions and rules and regulations or parts thereof, which are inconsistent with this Act, are hereby deemed repealed or modified accordingly.

SEC. 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,