



HOUSE OF REPRESENTATIVES

H. No. 4437

BY REPRESENTATIVES VILLAFUERTE, ALVAREZ (F.) AND NIETO,
PER COMMITTEE REPORT NO. 7

AN ACT GRANTING THE BICOL LIGHT AND POWER CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE, AND MAINTAIN A POWER DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE TOWNS OF BAAO, BALATAN, BATO, BUHI, BULA, NABUA, AND THE CITY OF IRIGA, PROVINCE OF CAMARINES SUR, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Nature and Scope of Franchise.* — Subject to the
2 provisions of the Constitution and applicable laws, rules and
3 regulations, there is hereby granted to the Bicol Light and Power
4 Corporation, hereunder referred to as the grantee, its successors or
5 assignees, a franchise to construct, install, establish, operate, and
6 maintain for commercial purposes and in the public interest, a
7 power distribution system for the conveyance of electric power to
8 the end users in the Towns of Baao, Balatan, Bato, Buhi, Bula,
9 Nabua, and the City of Iriga, Province of Camarines Sur.

1 SEC. 2. *Manner of Operation of Facilities.* — All electric
2 distribution facilities, lines, and systems for electric services owned,
3 maintained, operated, or managed by the grantee, its successors or
4 assignees, shall be operated and maintained at all times in the best
5 manner. It shall be the duty of the grantee, its successors or
6 assignees, whenever required to do so by the Energy Regulatory
7 Commission (ERC) or its legal successor, or the Department of
8 Energy (DOE) or its legal successor, or the National Electrification
9 Administration (NEA) or its legal successor, or any other authorized
10 government agency, to modify, improve, and change such facilities
11 or systems in such a manner and to such extent as the progress in
12 science and improvements in the electric power service industry
13 may render reasonable and proper.

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

20 SEC. 3. *Authority of the Energy Regulatory Commission*
21 *(ERC) and the National Electrification Administration (NEA).* —
22 The grantee shall secure from the ERC or the NEA, or any other
23 government agency which has jurisdiction over the operation of the
24 herein grantee, the requisite certificate of public convenience and
25 necessity and other appropriate permits and licenses for the
26 construction and operation of its electric distribution system.

27 SEC. 4. *Excavation and Restoration Works.* — For the
28 purpose of erecting and maintaining poles and other supports for

1 wires or other conductors for the laying and maintaining
 2 underground wires, cables, pipes or other conductors, the grantee,
 3 its successors or assignees, is authorized to make excavations or lay
 4 conduits in any of the public places, roads, highways, streets, lanes,
 5 alleys, avenues, sidewalks, or bridges of said provinces, cities and/or
 6 municipalities, subject to prior approval of the Department of Public
 7 Works and Highways (DPWH) or the local government units (LGUs)
 8 concerned: *Provided, however,* That any public place, road,
 9 highway, street, lane, alley, avenue, sidewalk, or bridge disturbed,
 10 altered, or changed by reason of erection of poles or other supports
 11 or the underground laying of wires, other conductors or conduits,
 12 shall be repaired or replaced in workmanlike manner at the expense
 13 of the grantee, its successors or assignees, in accordance with the
 14 standards set by the DPWH or the LGU concerned. Should the
 15 grantee, its successors or assignees, after the ten (10)-day notice
 16 from the said authority, fail, refuse or neglect to repair or replace
 17 any part of public place, road, highway, street, lane, alley, avenue,
 18 sidewalk or bridge that has been disturbed, altered, or changed by
 19 the said grantee, its successors or assignees, then the DPWH or the
 20 LGU concerned shall have the right to have the same repaired or
 21 replaced in good order and condition and charge the grantee, its
 22 successors or assignees, at double the amount of the costs and
 23 expenses for such repair or replacement.

24 SEC. 5. *Responsibility to the Public.* – The grantee shall
 25 supply electricity to its captive market in the urban and rural
 26 portions of its franchise area in the least costly manner. In the
 27 interest of the public good and as far as feasible and whenever
 28 required by the ERC, the grantee shall modify, improve or change

1 its facilities, poles, lines, systems, and equipment for the purpose of
 2 providing efficient and reliable service and reduced electricity costs.
 3 The grantee shall charge reasonable and just power rates for its
 4 services to all types of consumers within its franchise areas.

5 The grantee shall have the obligation to provide open and
 6 nondiscriminatory access to its distribution system and services for
 7 any end user within its franchise area consistent with Republic Act
 8 No. 9136, otherwise known as the “Electric Power Industry Reform
 9 Act of 2001”. The grantee shall not engage in any activity that will
 10 constitute an abuse of market power such as unfair trade practices,
 11 monopolistic schemes, and any other activities that will hinder
 12 competitiveness of businesses and industries.

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

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

21 The grantee shall identify and itemize in its billing statement
 22 to end users the components of the retail rate pursuant to Republic
 23 Act No. 9136. Such rates charged by the grantee shall be made
 24 public and transparent. The grantee shall implement lifeline rate to
 25 marginalized end users as mandated under Republic Act No. 9136.

26 SEC. 7. *Protection of Consumer Interests.* – The herein
 27 grantee shall establish a consumer desk that will handle consumer
 28 complaints and ensure adequate protection of consumer interests.

1 The grantee shall act with dispatch on all complaints brought before
2 it.

3 SEC. 8. *Commitment to Provide and Promote the Creation of*
4 *Employment Opportunities.* – The grantee shall create employment
5 opportunities and shall allow on-the-job trainings in their franchise
6 operation: *Provided*, That priority shall be accorded to the residents
7 of the place where their principal office is located: *Provided, further*,
8 That the grantee shall follow the applicable labor standards and
9 allowance entitlement under existing labor laws, rules and
10 regulations and similar issuances: *Provided, finally*, That the
11 employment opportunities or jobs created shall be reflected in the
12 General Information Sheet (GIS) to be submitted to the Securities
13 and Exchange Commission (SEC) annually.

14 SEC. 9. *Right of the Government.* – A special right is hereby
15 reserved to the President of the Philippines, in times of war,
16 rebellion, public peril, calamity, emergency, disaster or disturbance
17 of peace and order: to temporarily take over and operate the
18 distribution system of the grantee; to temporarily suspend the
19 operation of any station or facility in the interest of public safety,
20 security and public welfare; or to authorize the temporary use and
21 operation thereof by any agency of the government, upon due
22 compensation to the grantee, for the use of said distribution system
23 during the period when these shall be so operated.

24 SEC. 10. *Right of Eminent Domain.* – Subject to the
25 limitations and procedures prescribed by law, the grantee is
26 authorized to exercise the right of eminent domain insofar as it may
27 be reasonably necessary for the efficient maintenance and operation
28 of services. The grantee is authorized to install and maintain its

1 poles, wires, and other facilities over and across public property,
2 including streets, highways, forest reserves, and other similar
3 property of the Government of the Philippines, its branches, or any
4 of its instrumentalities. The grantee may acquire such private
5 property as is actually necessary for the realization of the purposes
6 for which this franchise is granted: *Provided*, That proper
7 condemnation proceedings shall have been instituted and just
8 compensation paid.

9 SEC. 11. *Term of Franchise.* – This franchise shall be in
10 effect for a period of twenty-five (25) years from the date of the
11 effectivity of this Act, unless sooner cancelled. This franchise shall
12 be deemed *ipso facto* revoked in the event that the grantee fails to
13 comply with any of the following conditions:

14 (a) commence operations within three (3) years from the
15 approval of its operating permit by the ERC or the NEA;

16 (b) commence operations within five (5) years from the
17 effectivity of this Act; and

18 (c) operate continuously for two (2) years.

19 SEC. 12. *Renewal or Extension of Franchise.* – The grantee
20 shall apply for the renewal or extension of its franchise five (5)
21 years before its expiration, reckoned from fifteen (15) days after the
22 publication of the franchise in the *Official Gazette* or in a newspaper
23 of general circulation, whichever is earlier.

24 SEC. 13. *Warranty in Favor of the National and Local*
25 *Governments.* – The grantee shall hold the national, provincial,
26 city, and municipal governments of the Philippines free from all
27 claims, liabilities, demands, or actions arising out of accidents that
28 cause injury to persons or damage to properties, during the

1 construction, installation, operation, and maintenance of the
2 distribution system of the grantee.

3 SEC. 14. *Liability to Damages.* – The grantee shall be liable
4 for any injury to persons or damage to property caused by any
5 accident arising from any defective construction of any
6 infrastructure built pursuant to the operation of its business under
7 this franchise, or of any neglect or failure to keep its poles and wires
8 in safe condition.

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

27 SEC. 16. *Dispersal of Ownership.* – In accordance with the
28 constitutional provision to encourage public participation in public

1 utilities, the grantee shall offer to Filipino citizens at least thirty
2 percent (30%) or a higher percentage that may hereafter be
3 provided by law of its outstanding capital stock and list and/or trade
4 in any registered or organized securities market in the Philippines
5 within five (5) years from the commencement of its operations:
6 *Provided, That* in cases where public offer of shares is not
7 applicable, as determined by relevant government agency, other
8 methods of encouraging public participation by citizens must be
9 implemented. Noncompliance therewith shall render the franchise
10 *ipso facto* revoked.

11 SEC. 17. *Reportorial Requirement.* – The grantee shall
12 submit an annual report to the Congress of the Philippines, through
13 the Committee on Legislative Franchises of the House of
14 Representatives and the Committee on Public Services of the
15 Senate, on its compliance with the terms and conditions of the
16 franchise and on its operations on or before April 30 of the
17 succeeding year.

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

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

26 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege,
27 exemption, or immunity granted under existing franchises, or which
28 may hereafter be granted shall, upon prior review and approval of

1 Congress, become part of previously granted power distribution
 2 franchises and shall be accorded immediately and unconditionally to
 3 the grantees of such franchises: *Provided*, That the foregoing shall
 4 neither apply to nor affect the provisions of power distribution
 5 franchises concerning territorial coverage, the term, or the type of
 6 service authorized by the franchise.

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

13 SEC. 20. *Applicability of Existing Laws.* – The grantee shall
 14 comply with and be subject to the provisions of Commonwealth Act
 15 No. 146, or the “Public Service Act”, as amended; Republic Act
 16 No. 9136; and Republic Act No. 10531 or “An Act Strengthening the
 17 National Electrification Administration, Further Amending for the
 18 Purpose Presidential Decree No. 269, as Amended, Otherwise
 19 Known as the ‘National Electrification Administration Decree’”.

20 SEC. 21. *Repealability and Nonexclusivity Clause.* – This
 21 franchise shall be subject to amendment, alteration, or repeal by the
 22 Congress of the Philippines when the public interest so requires and
 23 shall not be interpreted as an exclusive grant of the privileges
 24 herein provided for.

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

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

5 SEC. 24. *Effectivity.* – This Act shall take effect fifteen (15)
 6 days after its publication either in the *Official Gazette* or in a
 7 newspaper of general circulation.

Approved,

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