

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



COMMITTEE REPORT NO. 6

Submitted by the Committee on Legislative Franchises on SEP 09 2019

Re: House Bill No. 4436

Recommending its approval in substitution of House Bill No. 2283

Sponsors: Representatives Franz E. Alvarez, Mohamad Khalid Q. Dimaporo and Abdullah D. Dimaporo

MR. SPEAKER:

The Committee on Legislative Franchises to which were referred **House Bill No. 2283**, authored by Reps. Mohamad Khalid Q. Dimaporo and Abdullah D. Dimaporo, entitled:

"AN ACT GRANTING THE LANA O DEL NORTE ELECTRIC COOPERATIVE A FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN ALL THE MUNICIPALITIES OF THE PROVINCE OF LANA O DEL NORTE"

has considered the same and recommends that the attached House Bill No. 4436, entitled:

"AN ACT GRANTING THE LANA O DEL NORTE ELECTRIC COOPERATIVE A FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN ALL THE MUNICIPALITIES OF THE PROVINCE OF LANA O DEL NORTE"

be approved in substitution of House Bill No. 2283 with Reps. Mohamad Khalid Q. Dimaporo, Abdullah D. Dimaporo and Franz E. Alvarez, as authors thereof.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Franz E. Alvarez', written over the printed name.

FRANZ E. ALVAREZ

Chairman

Committee on Legislative Franchises

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

Republic of the Philippines
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EIGHTEENTH CONGRESS
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HOUSE BILL NO. 4436
(In Substitution of House Bill No. 2283)

Introduced by **REPS. MOHAMAD KHALID Q. DIMAPORO, ABDULLAH D. DIMAPORO and
FRANZ E. ALVAREZ**

AN ACT

**GRANTING THE LANAOS DEL NORTE ELECTRIC COOPERATIVE A FRANCHISE TO CONSTRUCT,
OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC
POWER TO THE END-USERS IN ALL THE MUNICIPALITIES OF THE PROVINCE OF LANAOS DEL
NORTE**

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 the Lanaos Del Norte Electric Cooperative (LANECO), hereunder 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, a power distribution system for the conveyance of electric power to the end users in the municipalities of Bacolod, Baloi, Baroy, Kapatagan, Kauswagan, Kolambugan, Lala, Linamon, Magsaysay, Maigo, Matungao, Munai, Nunungan, Pantao Ragat, Pantar, Poona Piagapo, Salvador, Sapad, Sultan Naga Dimaporo, Tagoloan, Tangcal, and Tubod in Province of Lanaos Del Norte.

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

SECTION 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 the National Electrification Administration (NEA) or its legal successor, or any other authorized government agency, 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.

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

5 Section 3. *Authority of the Energy Regulatory Commission (ERC) and the National*
6 *Electrification Administration (NEA).* – The grantee shall secure from the ERC or NEA, or any
7 other government agency which has jurisdiction over the operation of the herein grantee, the
8 requisite certificate of public convenience and necessity and other appropriate permits and
9 licenses for the construction and operation of its electric distribution system.

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

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

35 The grantee shall have the obligation to provide open and nondiscriminatory access
36 to its distribution system and services for any end user within its franchise area consistent
37 with Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of
38 2001”. The grantee shall not engage in any activity that will constitute an abuse of market
39 power such as unfair trade practices, monopolistic schemes, and any other activities that will
40 hinder competitiveness of businesses and industries.

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

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

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

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

14 Section 8. *Right of the Government.* - A special right is hereby reserved to the President
15 of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or
16 disturbance of peace and order: to temporarily take over and operate the distribution system
17 of the grantee, to temporarily suspend the operation of any station or facility in the interest
18 of public safety, security and public welfare; or to authorize the temporary use and operation
19 thereof by any agency of the government, upon due compensation to the grantee, for the use
20 of said distribution system during the period when they shall be so operated.

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

30 Section 10. *Term of Franchise.* – This franchise shall be for a term of twenty-five (25)
31 years from the date of the effectivity of this Act, unless sooner revoked or cancelled by
32 Congress for any violation of the terms and/or provisions of the franchise herein granted.

33 Section 11. *Renewal or extension of franchise.* – The grantee shall apply for the
34 renewal or extension of its franchise five (5) years before its expiration, reckoned from fifteen
35 (15) days after the publication of the franchise in the Official Gazette or a newspaper of
36 general circulation.

37 Section 12. *Warranty in Favor of National and Local Governments.* – The grantee shall
38 hold the national, provincial, city, and municipal governments of the Philippines free from all
39 claims, liabilities, demands, or actions arising out of accidents that cause injury to persons or

1 damage to properties, during the construction, installation, operation, and maintenance of
2 the distribution system of the grantee.

3 Section 13. *Liability to Damages.* - The grantee shall be liable for any injury to persons
4 or damage to property arising from or caused by any accident by reason of any defective
5 construction of any infrastructure built pursuant to the operation of its business under this
6 franchise, or of any neglect or failure to keep its poles and wires in safe condition.

7 Section 14. *Commitment to Provide and Promote the Creation of Employment*
8 *Opportunities.* - The grantee shall create employment opportunities and shall allow on-the-
9 job trainings in their franchise operation: *Provided*, That priority shall be accorded to the
10 residents of the place where their principal office is located: *Provided further*, That the
11 grantee shall follow the applicable labor standards and allowance entitlement under existing
12 labor laws, rules and regulations and similar issuances: *Provided, finally*, That the employment
13 opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be
14 submitted to Securities and Exchange Commission (SEC) annually.

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

28 SEC 16. *Dispersal of Ownership.* - In accordance with the constitutional provision to
29 encourage public participation in public utilities, the grantee shall offer to Filipino citizens at
30 least thirty percent (30%) or a higher percentage that may hereafter be provided by law of its
31 outstanding capital stock and list and/or trade in any registered or organized securities market
32 in the Philippines within five (5) years from the commencement of its operations. *Provided*,
33 That in cases where public offer of shares is not applicable, as determined by relevant
34 government agency, other methods of encouraging public participation by citizens must be
35 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

36 Section 17. *Reportorial Requirement.* - The grantee shall submit an annual report to
37 the Congress of the Philippines, through the Committee on Legislative Franchises of the House
38 of Representatives and the Committee of Public Services of the Senate, on its compliance with
39 the terms and conditions of the franchise and on its operations on or before April 30 of the
40 succeeding year.

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

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

7 Section 18. *Equality Clause.* – Any advantage, favor, privilege, exemption, or
8 immunity granted under existing franchises, or may hereinafter be granted shall, upon prior
9 review and approval of Congress, become part of previously granted power distribution
10 franchises and shall be accorded immediately and unconditionally to the grantees of such
11 franchises: Provided, That the foregoing shall neither apply to nor affect the provisions of
12 power distribution franchises concerning territorial coverage, the term, or the type of service
13 authorized by the franchise.

14 Section 19. *Fine.* – Failure of the grantee to submit the requisite annual report to
15 Congress shall be penalized by a fine of Five Hundred Pesos (P500.00) per working day of
16 noncompliance. The fine shall be collected by the ERC from the delinquent franchise grantee
17 separate from the reportorial penalties imposed by the ERC and the same shall be remitted
18 to the National Treasury.

19 Section 20. *Applicability of Existing Laws.* – The grantee shall comply with and be
20 subject to the provisions of Commonwealth Act No. 146, or the “Public Service Act” as
21 amended; Republic Act No. 9136; and Republic Act No. 10531 or “An Act Strengthening the
22 National Electrification Administration, further Amending Presidential Decree No. 269, as
23 amended, otherwise known as the National Electrification Administration Decree”.

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

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

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

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

Approved.