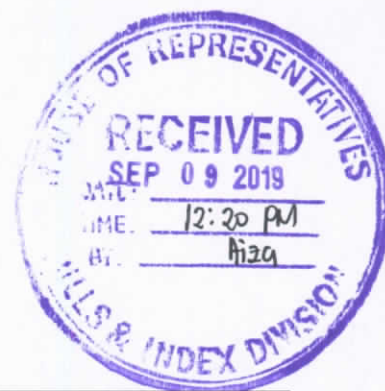


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



COMMITTEE REPORT NO. 7

Submitted by the Committee on Legislative Franchises on SEP 09 2019.

Re: House Bill No. 4437

Recommending its approval in substitution of House Bill No. 407

Sponsors: Representatives Franz E. Alvarez and Luis Raymund "LRAY" Villafuerte, Jr.

MR. SPEAKER:

The Committee on Legislative Franchises to which was referred **House Bill No. 407**, introduced by Rep. Luis Raymund "LRAY" Villafuerte, Jr., entitled:

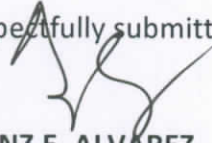
"AN ACT GRANTING THE BICOL LIGHT AND POWER CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE, AND MAINTAIN A POWER DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE TOWNS OF BAAO, BALATAN, BATO, BUHI, BULA, NABUA, AND THE CITY OF IRIGA, PROVINCE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

has considered the same and recommends that the attached House Bill No. 4437 entitled:

"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 approved in substitution of House Bill No. 407 with Reps. Luis Raymund "LRAY" Villafuerte, Jr. 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
Diliman, Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. **4437**
(In Substitution of House Bill No. 407)

Introduced by HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE AND FRANZ E. ALVAREZ

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:

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 Bicol Light and Power Corporation, 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 Towns of Baao, Balatan, Bato, Buhi, Bula, Nabua, and the City of Iriga, Province of Camarines Sur.

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. 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.

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 or NEA shall resolve cases of dispute or disagreement between parties.

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

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

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

31 The grantee shall have the obligation to provide open and nondiscriminatory access
32 to its distribution system and services for any end user within its franchise area consistent
33 with Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of
34 2001”. The grantee shall not engage in any activity that will constitute an abuse of market
35 power such as unfair trade practices, monopolistic schemes, and any other activities that will
36 hinder competitiveness of businesses and industries.

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

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

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

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

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

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

26 SEC 10. *Right of Eminent Domain.* – Subject to the limitations and procedures
27 prescribed by law, the grantee is authorized to exercise the right of eminent domain insofar
28 as it may be reasonably necessary for the efficient maintenance and operation of services.
29 The grantee is authorized to install and maintain its poles, wires, and other facilities over and
30 across public property, including streets, highways, forest reserves, and other similar property
31 of the Government of the Philippines, its branches, or any of its instrumentalities. The grantee
32 may acquire such private property as is actually necessary for the realization of the purposes
33 for which this franchise is granted: *Provided*, That proper condemnation proceedings shall
34 have been instituted and just compensation paid.

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

- 1 (A) commence operations within three (3) years from the approval of its operating
2 permit by the ERC or NEA;
3 (B) commence operations within five (5) years from the effectivity of this Act; and
4 (C) operate continuously for two (2) years.

5 SEC 12. *Renewal or Extension of Franchise.* – The grantee shall apply for the renewal
6 or extension of its franchise five (5) years before its expiration, reckoned from fifteen (15)
7 days after the publication of the franchise in the official gazette or in a newspaper of general
8 circulation, whichever is earlier.

9 SEC 13. *Warranty in Favor of National and Local Governments.* – The grantee shall hold
10 the national, provincial, city, and municipal governments of the Philippines free from all
11 claims, liabilities, demands, or actions arising out of accidents that cause injury to persons or
12 damage to properties, during the construction, installation, operation, and maintenance of
13 the distribution system of the grantee.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Approved.