



HOUSE OF REPRESENTATIVES

H. No. 4436

BY REPRESENTATIVES DIMAPORO (M.K.), DIMAPORO (A.), ALVAREZ (F.), NIETO, DAGOOC, GUYA, EBCAS AND DE JESUS, PER COMMITTEE REPORT NO. 6

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 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 Lanao del Norte Electric
4 Cooperative (LANECO), hereunder referred to as the grantee, its
5 successors or assignees, a franchise to construct, install, establish,
6 operate, and maintain for commercial purposes and in the public
7 interest, a power distribution system for the conveyance of electric
8 power to the end users in the municipalities of Bacolod, Baloi,
9 Baroy, Kapatagan, Kauswagan, Kolambugan, Lala, Linamon,
10 Magsaysay, Maigo, Matungao, Munai, Nunungan, Pantao Ragat,
11 Pantar, Poona Piagapo, Salvador, Sapad, Sultan Naga Dimaporo,
12 Tagoloan, Tangcal, and Tubod in the Province of Lanao del Norte.

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

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

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

25 SEC. 3. *Authority of the Energy Regulatory Commission*
26 *(ERC) and the National Electrification Administration (NEA).* –
27 The grantee shall secure from the ERC or the NEA, or any other
28 government agency which has jurisdiction over the operation of the
29 herein grantee, the requisite 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 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, highways, 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 the LGU concerned shall have the right to have the same repaired or replaced in good order and condition and charge the grantee, its successors 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 businesses 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 users shall be regulated by and be subject to the approval of the ERC or its legal successor.

The grantee shall identify and itemize in its billing statement to end users the components of the retail rate charged pursuant to Republic Act No. 9136. Such rates charged by the grantee to the end users 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 these 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 date of the effectivity of this Act, unless sooner revoked or cancelled by Congress for any violation of the terms and/or provisions of the franchise herein granted.

SEC. 11. *Renewal or Extension of Franchise.* — The grantee shall apply for the renewal or extension of its franchise five (5) years before its expiration, reckoned from fifteen (15) days after the publication of the franchise in the *Official Gazette* or in a newspaper of general circulation.

SEC. 12. *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. 13. *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. 14. *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

1 and allowance entitlement under existing labor laws, rules and
 2 regulations and similar issuances: *Provided, finally*, That the
 3 employment opportunities or jobs created shall be reflected in the
 4 General Information Sheet (GIS) to be submitted to the Securities
 5 and Exchange Commission (SEC) annually.

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

24 SEC. 16. *Dispersal of Ownership.* – In accordance with the
 25 constitutional provision to encourage public participation in public
 26 utilities, the grantee shall offer to Filipino citizens at least thirty
 27 percent (30%) or a higher percentage that may hereafter be
 28 provided by law of its outstanding capital stock and list and/or trade
 29 in any registered or organized securities market in the Philippines

1 within five (5) years from the commencement of its operations:
 2 *Provided*, That in cases where public offer of shares is not
 3 applicable, as determined by relevant government agency, other
 4 methods of encouraging public participation by citizens must be
 5 implemented. Noncompliance therewith shall render the franchise
 6 *ipso facto* revoked.

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

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

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

22 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege,
 23 exemption, or immunity granted under existing franchises, or may
 24 hereinafter be granted shall, upon prior review and approval of
 25 Congress, become part of previously granted power distribution
 26 franchises and shall be accorded immediately and unconditionally to
 27 the grantees of such franchises: *Provided*, That the foregoing shall
 28 neither apply to nor affect the provisions of power distribution

1 franchises concerning territorial coverage, the term, or the type of
2 service authorized by the franchise.

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

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

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

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

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

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

Approved,

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