

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

First Regular Session

6412

House Bill No. _____



Introduced by Rep. MARLYN B. ALONTE

EXPLANATORY NOTE

As enshrined in the Constitution, the State recognizes the vital role of communication and information in nation-building and the indispensable role of the private sector.

This bill seeks to renew the franchise granted to Independent Telephone Company, Inc. for another 25 years.

The INDEPENDENT TELEPHONE COMPANY, INC. is a duly accredited member of the Philippine Association of Private Telephone Companies, Inc. The operators thereof, being the operators of small telephone companies offering telephone services in their respective areas throughout the Philippines, by virtue of municipal and/or provincial franchises, granted them by their respective local government units (LGU's) under the provisions of the Local Autonomy Code.

Set up to link relatives and friends in Biñan using military communication equipment left by the Americans, the original owners convinced some rich families in Biñan to invest in the telephone system due to the increasing demand for a telephone system. In 1954, Independent Telephone Company, Inc. was registered as a corporation and a franchise was soon granted to it making Biñan the only town in Laguna that had an independent telephone system.

The company has long replaced the surplus equipment with state-of-the-art facilities. It was among the first telephone companies to introduce an electronic switching system that offered National Direct Dialing, International Direct Dialing, Toll-free calls, overseas Collect calls and fiber optic interconnection and digital lines for Internet and data communication link-ups.

Independent Telephone Company, Inc. now provides its subscribers with both the landline voice connection and the more in demand data connection. It now focuses its operations in providing fiber optic connection to even the remote communities in its franchise municipality.

The applicant now seeks the "protective mantle" of a congressional franchise to confirm their local franchises previously granted. This application of a congressional franchise will further the security of tenure and operations of these small local telephone exchanges who have pioneered in providing basic telephone services in the far flung areas of our country for more than fifty years, long before the "big players" in the telecommunications industry came into the picture.

These small operators are 100% Filipino owned companies who deserve nothing less than the grant of their franchise as some form of recognition of their indomitable spirit of Filipino entrepreneurship.

For all the foregoing, it is earnestly urged that this bill be favorably considered.



REP. MARLYN B. ALONTE

Lone District of Biñan

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House Bill No. 6412

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AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO INDEPENDENT TELEPHONE COMPANY, INC., UNDER REPUBLIC ACT NO. 8615 ENTITLED "AN ACT GRANTING THE INDEPENDENT TELEPHONE CO., INC. A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE LOCAL EXCHANGE, NETWORK IN THE CITY OF BIÑAN, PROVINCE OF LAGUNA

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 Independent Telephone Company, Inc., hereunder referred to as the grantee, its successors or assigns, a franchise to construct, establish, install, maintain and operate for commercial purposes and in the public interest, a local exchange network, including public calling stations or pay telephone stations, wire and/or wireless telecommunications system, copper, fiber optics, satellite transmit and receive systems, switches and their value-added services such as the transmission of voice, data, facsimile, control signs, audio and video, information services and all other telecommunications system technologies as are at present available or will be made available through technological advances or innovations in the future; or construct, acquire, lease, and operate, or manage transmitting and receiving stations, lines, cables, or systems as are convenient or essential to efficiently carry out the purpose of this franchise, is hereby renewed for another twenty-five (25) years from the effectivity of this Act., and for such purpose provide basic telephone service or other means related to the forgoing now known to

science or which the future may be developed in the Municipality of Biñan, Province of Laguna, for public domestic telecommunications.

SEC. 2. Manner of Operation of Stations or Facilities. The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference of the wavelengths or frequencies of the existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof. In no way shall the operations of the grantee, nor the radiated power of its stations or facilities. Exceed that required to cover the area where it is allowed to operate.

SEC. 3. Authority of the National Telecommunications Commissions. - The grantee shall secure from the National Telecommunications Commission, hereinafter referred to as the Commission, a certificate of public convenience and necessity or the appropriate permits and licenses for the location, constructed, installation and operation of its telecommunications systems. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunication system. The Commission shall have the authority to regulate the construction and operation of its telecommunication systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

SEC. 4. Responsibility to the Public. The grantee shall conform to the ethics of honest enterprise and shall not use its stations for obscene or indecent transmission or for dissemination of deliberately false information or willful misrepresentation, or assist in subversive or treasonable acts.

The grantee shall provide basic or enhanced telephone service within the City of Biñan, Province of Laguna, where it has an approved certificate of public convenience and necessity for the establishment, operation and maintenance of a local exchange service, without discrimination to any applicant therefore, in the order of the date of their applications up to the limit of the capacity of its local telephone exchange, and should the demand for the telephone service at any time increase beyond the capacity thereof, the grantee shall increase the same to meet such demand; Provided, That in case the total demand to be satisfied by the expansion is less than the smallest viable local exchange available in the market as determined by the

Commission, the grantee shall not be obliged to furnish said service, unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunication apparatus necessary for such services and in such case, the Commission may extend the time within which the grantee shall furnish such service.

The grantee shall operate and maintain all its stations, lines, cables, systems and equipment for the transmission and reception of messages, signals and pulses in a satisfactory manner at all times, and as far as economical and practicable, modify, improve or change such stations, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

SEC. 5. Rates for Services. The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as nonregulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the Commission or its legal successors. The rates to be charged by the grantee shall be unbundled, separable and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidize the unregulated ones.

SEC. 6. Right of 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 stations, transmitters, facilities or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility or equipment in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereby by any agency of the government, upon due compensation to the grantee for the use of said stations, transmitters, facilities or equipment during the period when they shall be operated.

The radio spectrum is a finite resource that is a part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn anytime, after due process.

SEC. 7. Term of Franchise.- This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed ipso facto revoked, in the event the grantee fails to comply with any of the following conditions:

- (a) Commence operations within three (3) years from the approval of its operating permit or provisional authority by the National Telecommunications Commission;

(b) Operate continuously for two (2) years; and

(c) Commence operations within five (5) years from the effectivity of this Act.

~~~~~SEC. 8. Acceptance and Compliance. - Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Non-acceptance shall render the franchise void.

Sec. 9. Bond. - The grantee shall file a bond issued in favor of the National Telecommunications Commission, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If after three (3) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise, the bond shall be forfeited in favor of the government and the franchise ipso facto revoked.

SEC. 10. Right of Interconnection. - The grantee is hereby authorized to connect or demand connection of its telecommunications system to any other telecommunications systems installed, operated and maintained by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public under the terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to the review or modification of the Commission.

SEC. 11. Commitment to Provide and Promote the Creation of Employment Opportunities. - The grantee shall create employment opportunities and shall allow on-the-job training in their franchise operation: Provided, That priority shall be accorded to the residents in areas where any of its offices 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 the Securities and Exchange Commission annually.

SEC. 12. Tax Provisions. - The grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property exclusive of this franchise. In addition thereto, the grantee, its successors or assigns, shall pay the value added tax under Republic Act No. 7716, as amended on all gross receipts of its telecommunications business transacted under this franchise.

Sec. 13. 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, accounts, demands, or actions arising out of accidents, causing injury to persons or damage to properties during the construction or operation of the stations, transmitters, facilities, or equipment of the grantee.

SEC. 14. Sale, Lease, Transfer, Usufruct, etc. – The grantee shall not lease, transfer, grant the usufruct of, sell not assign this franchise or the rights and privileges acquired there under to any person, firm, company, corporation or other commercial or legal entity, nor merge with any corporation or entity, nor shall the controlling interest in the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines, except when such person, firm, company, corporation or entity has a valid and existing legislative franchise for telecommunications or it is in pursuance of the provision of Section 14 of this Act. 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 provisions to encourage public participation in the public utilities, the grantee shall offer at least thirty per centum or its outstanding capital stock or a higher percentage that may hereafter be provided by law in any securities exchange in the Philippines within ten (10) years from the commencement of its operations. Noncompliance therewith shall render the franchise ipso facto revoked.

SEC. 16. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby shall remain valid.

SEC. 17. Equality Clause. Any advantage, favor, privilege exemption, or immunity granted under other existing franchises, or which may hereafter be granted, 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 the provisions of telecommunications franchises concerning territory, life span, or type of service authorized by the franchise.

SEC. 18. Repealability and Non-Exclusivity 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 privilege herein provided for.

SEC. 19. Repealing Clause. - All other laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 20. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,