

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



Senate
Office of the Secretary

'16 FEB -1 P 6:30

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 452

Submitted by the Committee on Public Services on FEB 01 2016

RE : H. B. No. 6005

Recommending its approval without amendment.

Sponsor : Senator Osmeña III

MR. PRESIDENT:

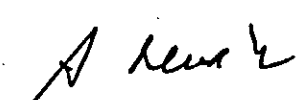
The Senate Committee on Public Services to which was referred H. B. No. 6005, introduced by Representatives Aggabao, Teodoro and *et.al.*, entitled:

**"AN ACT GRANTING THE INFINIVAN, INC. A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE AND MAINTAIN TELECOMMUNICATIONS
SYSTEMS THROUGHOUT THE PHILIPPINES."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H. B. No. 6005 be approved without amendment.

Respectfully submitted:

RAMON BONG REVILLA JR.
Chairperson
Committee on Public Services


SERGIO R. OSMEÑA III
Acting Chairperson
Committee on Public Services

MEMBERS:



SONNY ANGARA



PIA S. CAYETANO

JINGGOY EJERCITO ESTRADA



JOSEPH VICTOR G. EJERCITO



GREGORIO B. HONASAN II



TEOPISTO L. GUINGONA III



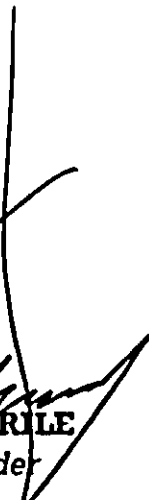
GRACE POE

ANTONIO "SONNY" F. TRILLANES IV



CYNTHIA A. VILLAR

EX-OFFICIO MEMBERS:



RALPH G. RECTO
President Pro-Tempore



JEAN PONCE ENRILE
Minority Floor Leader

ALAN PETER S. CAYETANO
Majority Floor Leader

FRANKLIN M. DRILON
Senate President
Pasay City

CONGRESS OF THE PHILIPPINES
SIXTEENTH CONGRESS
Third Regular Session

}

HOUSE OF REPRESENTATIVES

II. No. 6005

BY REPRESENTATIVES AGGABAO AND TEODORO, PER COMMITTEE REPORT
No. 825

**AN ACT GRANTING THE INFINIVAN, INC. A FRANCHISE
TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE
AND MAINTAIN TELECOMMUNICATIONS SYSTEMS
THROUGHOUT THE PHILIPPINES**

*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 1987 Philippine Constitution and applicable laws, rules and
3 regulations, there is hereby granted to INFINIVAN, INC., hereunder referred
4 to as the grantee, its successors or assignees, a franchise to construct, install,
5 establish, operate, and maintain for commercial purposes and in the public
6 interest, throughout the Philippines, wire and/or wireless telecommunications
7 systems including mobile cellular, paging, fiber optics, satellite transmit
8 and receive systems, switches, international and domestic gateway and
9 international and domestic submarine cable landing stations, and their
10 value-added services such as the transmission of voice, data, facsimile, control
11 signs, audio and video, information services and all other telecommunications

1 system technologies as are at present available or will be made available
2 through technological advances or innovations in the future; and/or construct,
3 acquire, lease and operate, or manage transmitting and receiving stations, lines,
4 cables, or systems as are convenient or essential to efficiently carry out the
5 purpose of this franchise.

6 **SEC. 2. *Manner of Operation of Stations or Facilities.*** - The stations
7 or facilities of the grantee shall be constructed and operated in a manner as
8 will, at most, result only in the minimum interference on the wavelengths or
9 frequencies of existing stations or other stations which may be established by
10 law, without in any way diminishing its own right to use its assigned
11 wavelengths or frequencies and the quality of transmission or reception thereon
12 as should maximize rendition of the grantee's services and/or the availability
13 thereof.

14 **SEC. 3. *Authority of the National Telecommunications Commission***
15 **(NTC).** - The grantee shall secure from the National Telecommunications
16 Commission (NTC) a Certificate of Public Convenience and Necessity or the
17 appropriate permits and licenses for the construction, installation, and
18 operation of its telecommunications systems/facilities. In issuing the certificate,
19 the NTC shall have the power to impose such conditions relative to the
20 construction, operation, maintenance, or service level of the
21 telecommunications systems. The NTC shall have the authority to regulate the
22 construction and operation of its telecommunications systems. The grantee
23 shall not use any frequency in the radio spectrum without authorization from
24 the NTC. Such certificate shall state the areas covered and the date the grantee
25 shall commence the service. The NTC, however, shall not unreasonably
26 withhold or delay the grant of such authority, permit, or license.

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

1 conductors for the purpose of laying and maintaining underground wires,
2 cables, or other conductors, it shall be lawful for the grantee, its successors or
3 assignees, with the prior approval of the Department of Public Works and
4 Highways (DPWH) or the local government unit (LGU) concerned, as may be
5 appropriate, to make excavations or lay conduits in any of the public places,
6 roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the
7 province, cities and/or municipalities: *Provided, however,* That a public place,
8 road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered
9 or changed by reason of erection of poles or other supports or the underground
10 laying of wires, other conductors or conduits, shall be repaired and replaced in
11 workmanlike manner by the grantee, its successors or assignees, in accordance
12 with the standards set by the DPWH or the LGU concerned. Should the
13 grantee, its successors or assignees, after the ten (10)-day notice from the said
14 authority, fail, refuse, or neglect to repair or replace any part of public place,
15 road, highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed
16 or disturbed by the grantee, its successors or assignees, then the DPWH or the
17 LGU concerned shall have the right to have the same repaired and placed in
18 good order and condition at double expense to be charged against the grantee,
19 its successors or assignees.

20 **SEC. 5. Responsibility to the Public.** — The grantee shall conform to
21 the ethics of honest enterprise and not use its stations or facilities for obscene
22 or indecent transmission or for dissemination of deliberately false information;
23 or willful misrepresentation; or assist in subversive or treasonable acts.

24 The grantee shall provide basic or enhanced telephone service in any
25 city and/or municipality in the Philippines where it has an approved Certificate
26 of Public Convenience and Necessity for the establishment, operation, and
27 maintenance of a local exchange service, without discrimination to any
28 applicant therefor, in the order of the date of their applications, up to the limit

1 of the capacity of its local telephone exchange and, should the demand for the
2 telephone service at any time increase beyond the capacity thereof, the grantee
3 shall increase the same to meet such demand: *Provided*, That in case the total
4 demand to be satisfied by the expansion is less than the smallest viable local
5 exchange available in the market as determined by the NTC, the grantee shall
6 not be obliged to furnish such service unless the applicant for telephone service
7 defrays the actual expenses for the installation of the telecommunications
8 apparatus necessary for such services and in such case, the NTC may extend
9 the time within which the grantee shall furnish the service.

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

16 **SEC. 6. Rates for Services.** — The charges and rates for
17 telecommunications services of the grantee, except the rates and charges on
18 those that may hereafter be declared or considered as nonregulated services,
19 whether flat rates or measured rates or variation thereof, shall be subject to the
20 approval of the NTC or its legal successor. The rates to be charged by the
21 grantee shall be unbundled, separable, and distinct among the services offered
22 and shall be determined in such a manner that regulated services do not
23 subsidize the unregulated ones.

24 **SEC. 7. Right of Government.** — A special right is hereby reserved to
25 the President of the Philippines, in times of war, rebellion, public peril,
26 calamity, emergency, disaster, or disturbance of peace and order, to
27 temporarily take over and operate the stations, transmitters, facilities or
28 equipment of the grantee; to temporarily suspend the operation of any station,

1 transmitter, facility, or equipment in the interest of public safety, security, and
2 public welfare; or to authorize the temporary use and operation thereof by any
3 agency of the government, upon due compensation to the grantee for the use of
4 said stations, transmitters, facilities, or equipment during the period when these
5 shall be so operated.

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

9 **SEC. 8. Term of Franchise.** - This franchise shall be in effect for a
10 period of twenty-five (25) years from the date of the effectivity of this Act,
11 unless sooner cancelled. This franchise shall be deemed *ipso facto* revoked in
12 the event the grantee fails to comply with any of the following conditions:

13 (a) Commence operations within one (1) year from the approval of its
14 operating permit by the NTC;

15 (b) Commence operations within three (3) years from the effectivity of
16 this Act; and

17 (c) Operate continuously for two (2) years.

18 **SEC. 9. Acceptance and Compliance.** - Acceptance of this franchise
19 shall be given in writing to the Congress of the Philippines, through the
20 Committee on Legislative Franchises of the House of Representatives and the
21 Committee on Public Services of the Senate, within sixty (60) days from the
22 effectivity of this Act. Upon giving such acceptance, the grantee shall exercise
23 the privileges granted under this Act. Nonacceptance shall render the franchise
24 void.

25 **SEC. 10. Bond.** - The grantee shall file a bond with the NTC in the
26 amount that it shall determine to guarantee compliance with and fulfillment of
27 the conditions under which this franchise is granted. If after three (3) years
28 from the date of the approval of its permit by the NTC, the grantee shall have

1 fulfilled the conditions, the bond shall be cancelled by the NTC. Otherwise,
2 the bond shall be forfeited in favor of the government and the franchise *ipso*
3 *facto* revoked.

4 **SEC. 11. *Right of Interconnection.*** – The grantee is hereby authorized
5 to connect or demand connection of its telecommunications systems to other
6 telecommunications systems installed, operated, and maintained by any other
7 duly authorized person or entity in the Philippines for the purpose of providing
8 extended and improved telecommunications services to the public, under such
9 terms and conditions mutually agreed upon by the parties concerned and the
10 same shall be subject to the review and modification of the NTC.

11 **SEC. 12. *Gross Receipts.*** – The grantee, its successors or assignees,
12 shall keep a separate account of the gross receipts of the business transacted by
13 it and shall furnish the Commission on Audit (COA) and the National Treasury
14 a copy of such account not later than the thirty-first (31st) day of January of
15 each year for the preceding twelve (12) months.

16 **SEC. 13. *Books and Accounts.*** – The books and accounts of the
17 grantee, its successors or assignees, shall always be open to the inspection of
18 the COA and its duly authorized representatives. It shall be the duty of the
19 grantee to submit to the COA two (2) copies of the quarterly reports on the
20 gross receipts, the net profits, and the general condition of the business.

21 **SEC. 14. *Warranty in Favor of the National and Local Governments.***
22 – The grantee shall hold the national, provincial, city, and municipal
23 governments of the Philippines free from all claims, accounts, demands, or
24 actions arising out of accidents or injuries, whether to property or to persons,
25 caused by the construction or operation of the stations, transmitters, facilities,
26 and equipment of the grantee.

27 **SEC. 15. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.***
28 – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign

1 this franchise or the rights and privileges acquired thereunder to any person,
2 firm, company, corporation, or other commercial or legal entity, nor merge
3 with any other corporation or entity, nor shall transfer the controlling interest
4 of the grantee, whether as a whole or in parts, and whether simultaneously or
5 contemporaneously, to any such person, firm, company, corporation, or entity
6 without the prior approval of the Congress of the Philippines: *Provided*, That
7 Congress shall be informed of any sale, lease, transfer, grant of usufruct, or
8 assignment of franchise or the rights and privileges acquired thereunder, or of
9 the merger or transfer of controlling interest of the grantee, within sixty (60)
10 days after the completion of the said transaction: *Provided, further*, That
11 failure to report to Congress such change of ownership shall render the
12 franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to
13 which this franchise is sold, transferred, or assigned, shall be subject to the
14 same conditions, terms, restrictions, and limitations of this Act.

15 **SEC. 16. Dispersal of Ownership.** — In accordance with the
16 constitutional provision to encourage public participation in public utilities, the
17 grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher
18 percentage that may hereafter be provided by law of its outstanding capital
19 stock in any securities exchange in the Philippines within five (5) years from
20 the commencement of its operations: *Provided*, That in cases where public
21 offer of shares is not applicable, establishment of cooperatives and other
22 methods of encouraging public participation by citizens and corporations
23 operating public utilities must be implemented. Noncompliance therewith shall
24 render the franchise *ipso facto* revoked.

25 **SEC. 17. Reportorial Requirement.** — The grantee shall submit an
26 annual report to the Congress of the Philippines, through the Committee on
27 Legislative Franchises of the House of Representatives and the Committee on
28 Public Services of the Senate, on its compliance with the terms and conditions

1 of the franchise and on its operations on or before April 30 of every year
2 during the term of its franchise. The reportorial compliance certificate issued
3 by Congress shall be required before any application for permit or certificate is
4 accepted by the NTC.

5 **SEC. 18. *Penalty Clause.*** — Failure of the grantee to submit the
6 requisite annual report to Congress shall be penalized with a fine of five
7 hundred pesos (P500.00) per working day of noncompliance. The fine shall be
8 collected by the NTC from the delinquent franchise grantee separate from the
9 reportorial penalties imposed by the NTC.

10 **SEC. 19. *Equality Clause.*** — Any advantage, favor, privilege,
11 exemption, or immunity granted under other existing franchises, or which may
12 hereafter be granted, upon prior review and approval of Congress, shall
13 become part of this franchise and shall be accorded immediately and
14 unconditionally to the herein grantee: *Provided*, That the foregoing shall
15 neither apply to nor affect provisions of telecommunications franchises
16 concerning territory covered by the franchise, the life span of the franchise, or
17 the type of service authorized by the franchise.

18 **SEC. 20. *Separability Clause.*** — If any of the sections or provisions of
19 this Act is held invalid, all other provisions not affected thereby shall remain
20 valid.

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

25 **SEC. 22. *Effectivity.*** — This Act shall take effect fifteen (15) days after
26 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,