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

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SENATE

COMMITTEE REPORT NO. 454

Submitted by the Committee on Public Services on FEB 01 2016

RE : H. B. No. 6314

Recommending its approval without amendment.

Sponsor : Senator Osmeña III

MR. PRESIDENT:

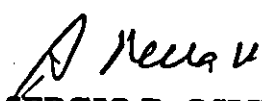
The Senate Committee on Public Services to which was referred H. B. No. 6314, introduced by Representatives Gonzales and Teodoro, entitled:

"AN ACT GRANTING THE
MEGAMANILA TELECOM CORP. 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. 6314 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



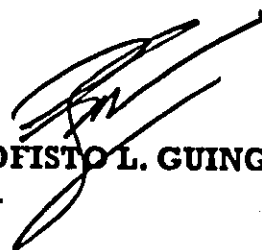
JINGGOY EJERCITO ESTRADA



JOSEPH VICTOR G. EJERCITO



GREGORIO B. HONASAN II



TEOFISTO L. GUINGONA III

GRACE POE

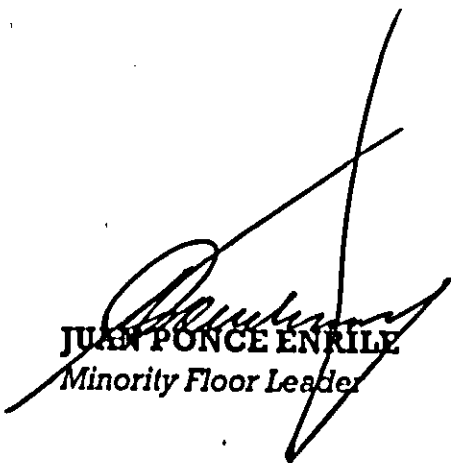
ANTONIO "SONNY" F. TRILLANES IV



CYNTHIA A. VILLAR

EX-OFFICIO MEMBERS:

RALPH G. RECTO
President Pro-Tempore



JUAN PONCE ENRILE
Minority Floor Leader

ALAN PETER S. CAYETANO
Majority Floor Leader

FRANKLIN M. DRILON
Senate President
Pasay City



HOUSE OF REPRESENTATIVES

II. No. 6314

BY REPRESENTATIVES GONZALES AND TEODORO

**AN ACT GRANTING THE MEGAMANILA TELECOM CORP.
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 Megamanila Telecom Corp., hereunder
4 referred to as the grantee, its successors or assignees, a franchise to construct,
5 install, establish, operate and maintain for commercial purposes and in the
6 public interest, throughout the Philippines, with its central base of operations
7 located at Ortigas Center, San Antonio, Pasig City, wire and/or wireless
8 telecommunications systems including, but not limited to, mobile, cellular,
9 paging, fiber optics, satellite transmit and receive systems, switches, and their
10 value-added services such as, but not limited to, transmission of voice, data,
11 facsimile, control signs, audio and video, information services bureau and all
12 other telecommunications systems technologies as are at present available or

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

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

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

26 **SEC. 4. *Excavation and Restoration Works.*** — For the purpose of
27 erecting and maintaining poles or other supports for said wires or other
28 conductors for the purpose of laying and maintaining underground wires,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the bond shall be forfeited in favor of the government and the franchise *ipso*
2 *facto* revoked.

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

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

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

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

26 SEC. 15. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of*
27 *Franchise.* — The grantee shall not sell, lease, transfer, grant the usufruct of
28 nor assign this franchise or the rights and privileges acquired thereunder to any

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

24 **SEC. 17. Reportorial Requirement.** — The grantee shall submit an
25 annual report to the Congress of the Philippines, through the Committee on
26 Legislative Franchises of the House of Representatives and the Committee on
27 Public Services of the Senate, on its compliance with the terms and conditions
28 of the franchise and on its operations on or before April 30 of every year

1 during the term of its franchise. The reportorial compliance certificate issued
2 by Congress shall be required before any application for permit or certificate is
3 accepted by the NTC.

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

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

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

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

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

Approved,