



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

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SENATE

COMMITTEE REPORT NO. 455

Submitted by the Committee on Public Services on FEB 0 1 2016

RE : H. B. No. 6312

Recommending its approval without amendment.

Sponsor : Senator Osmeña III

MR. PRESIDENT:


The Senate Committee on Public Services to which was referred H. B. No. 6312, introduced by Representatives Violago and Teodoro, entitled:

"AN ACT GRANTING THE METRO CONNECTIONS AND 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. 6312 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



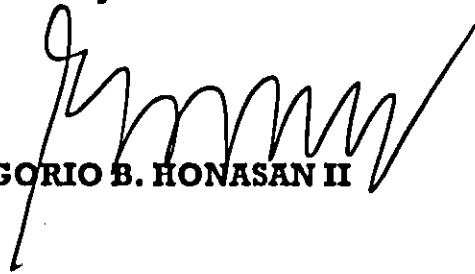
PIA S. CAYETANO

JINGGOY EJERCITO ESTRADA

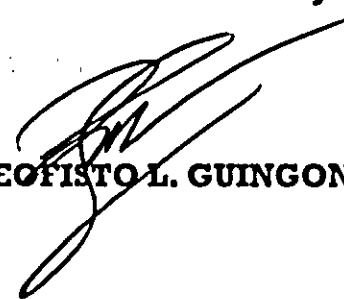


JOSEPH VICTOR G. EJERCITO

GREGORIO B. HONASAN II



TEOFISTO L. GUINGONA III



GRACE POE

ANTONIO "SONNY" F. TRILLANES IV

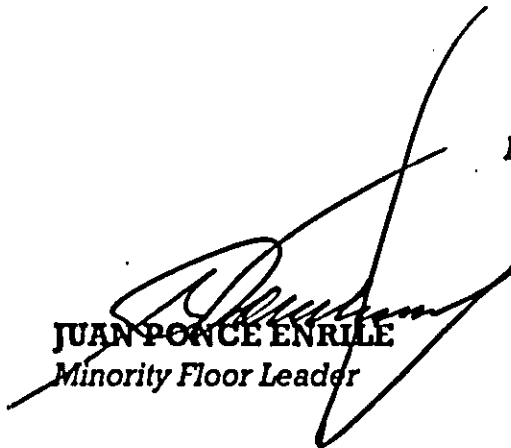


CYNTHIA A. VILLAR

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

IL No. 6312

BY REPRESENTATIVES VIOLAGO AND TEODORO

**AN ACT GRANTING THE METRO CONNECTIONS AND
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 Metro Connections and Telecom Corp.,
4 hereunder referred to as the grantee, its successors or assignees, a franchise to
5 construct, install, establish, operate and maintain for commercial purposes and
6 in the public interest, throughout the Philippines, with its central base of
7 operations located at San Juan City, wire and/or wireless telecommunications
8 systems including, but not limited to, mobile, cellular, paging, fiber optics,
9 satellite transmit and receive systems, switches, and their value-added services
10 such as, but not limited to, transmission of voice, data, facsimile, control
11 signs, audio and video, information services bureau and all other
12 telecommunications systems technologies as are at present available or will be
13 made available through technological advances or innovations in the future;
14 and/or construct, acquire, lease and operate or manage transmitting and
15 receiving stations, lines, cables or systems as are convenient or essential to
16 efficiently carry out the purpose of this franchise.

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

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

22 **SEC. 4. *Excavation and Restoration Works.*** – For the purpose of
23 erecting and maintaining poles or other supports for said wires or other
24 conductors for the purpose of laying and maintaining underground wires,
25 cables or other conductors, it shall be lawful for the grantee, its successors or
26 assignees, with the prior approval of the Department of Public Works and
27 Highways (DPWH) or the local government unit (LGU) concerned, as may be
28 appropriate, to make excavations or lay conduits in any of the public places.

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

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

19 The grantee shall provide basic or enhanced telephone service in any
20 city and/or municipality in the Philippines where it has an approved Certificate
21 of Public Convenience and Necessity for the establishment, operation and
22 maintenance of a local exchange service, without discrimination to any
23 applicant therefor, in the order of the date of their applications, up to the limit
24 of the capacity of its local telephone exchange and, should the demand for the
25 telephone service at any time increase beyond the capacity thereof, the grantee
26 shall increase the same to meet such demand: *Provided,* That in case the total
27 demand to be satisfied by the expansion is less than the smallest viable local
28 exchange available in the market as determined by the NTC, the grantee shall

1 not be obliged to furnish such service unless the applicant for telephone
2 service defrays the actual expenses for the installation of the
3 telecommunications apparatus necessary for such services and in such case,
4 the NTC may extend the time within which the grantee shall furnish such
5 service.

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

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

20 *SEC. 7. Right of Government.* — A special right is hereby reserved to
21 the President of the Philippines, in times of war, rebellion, public
22 peril, calamity, emergency, disaster, or disturbance of peace and order:
23 to temporarily take over and operate the stations, transmitters, facilities, or
24 equipment of the grantee; to temporarily suspend the operation of any station,
25 transmitter, facility, or equipment in the interest of public safety, security, and
26 public welfare; or to authorize the temporary use and operation thereof by any
27 agency of the government, upon due compensation to the grantee, for the use

1 of said stations, transmitters, facilities, or equipment during the period when
2 these shall be so operated.

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

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

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

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

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

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

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

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

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

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

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

24 **SEC. 15. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of***
25 ***Franchise.*** – The grantee shall not sell, lease, transfer, grant the usufruct of
26 nor assign this franchise or the rights and privileges acquired thereunder to any
27 person, firm, company, corporation or other commercial or legal entity, nor

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

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

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

1 by Congress shall be required before any application for permit or certificate
2 is accepted by the NTC.

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

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

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

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

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

Approved,