

(AS AMENDED BY THE SENATE)

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H. No. 8862

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BY REPRESENTATIVES ALONTE, ALVAREZ (F.), MACEDA, NOGRALES (J.J.), GUYA, DY (F.M.C.), GARCIA (P.J.), FORTUNO, RIVERA, ARENAS, ZUBIRI, VIOLAGO, QUIMBO, BORDADO, ROMUALDO, GULLAS, UNABIA, MARQUEZ, ROBES, BAUTISTA, VARGAS ALFONSO, FERRER (L.), CASTELO, TEJADA, ALMARIO AND TAN (A.S.), PER COMMITTEE REPORT NO. 792

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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 COMPANY, INC. A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE A LOCAL EXCHANGE NETWORK IN THE MUNICIPALITY OF BIÑAN, PROVINCE OF LAGUNA**

*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 provisions of  
2 the Constitution and applicable laws, rules and regulations, the franchise granted to  
3 Independent Telephone Company, Inc., hereunder referred as the grantee, its  
4 successor or assignees, under Republic Act No. 8615, to construct, install, establish,  
5 operate, and maintain for commercial purposes and in the public interest, in the City  
6 of Biñan, Province of Laguna, telecommunication systems and facilities for domestic  
7 communications, including local exchange network, public calling stations or pay  
8 telephone stations, wire and wireless telecommunications system, copper, fiber optics,  
9 satellite transmit and receive systems, switches and their value-added services such  
10 as the transmission of voice, data, facsimile, control signs, audio and video,  
11 information services and all other telecommunication system technologies as are at  
12 present available or will be made available through technological advances or  
13 innovations in the future; or construct, acquire, lease, and operate, or manage  
14 transmitting and receiving stations, lines, cables, or systems and associated  
15 equipment as are convenient and essential to efficiently carry out the purpose of this  
16 franchise, is hereby renewed for another twenty-five (25) years.  
17

18           **SEC. 2. *Manner of Operation of Stations or Facilities.*** – The stations or  
19 facilities of the grantee shall be constructed and operated in a manner as will, at most,  
20 result only in the minimum interference on the wavelengths or frequencies of existing  
21 stations or other stations which may be established by law, without in any way  
22 diminishing its own right to use its assigned wavelengths or frequencies and the quality

1 of transmission or reception thereon as should maximize rendition of the grantee's  
2 services or the availability thereof.

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

15  
16 In case of any violation of the provisions of this franchise, the NTC shall have  
17 the authority to revoke or suspend, after due process, the permits or licenses it issued  
18 pursuant to the franchise. The NTC may recommend to Congress the revocation of  
19 the franchise for any violation of the provisions of this franchise.

20  
21 **SEC. 4. Excavation and Restoration Works.** – For the purpose of erecting  
22 and maintaining poles or other supports for said wires or other conductors for the  
23 purpose of laying and maintaining underground wires, cables, or other conductors, it  
24 shall be lawful for the grantee, its successors or assignees, with the prior approval of  
25 the Department of Public Works and Highways (DPWH) or the local government unit  
26 (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any  
27 of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or  
28 bridges of the province, cities, or municipalities: *Provided, however,* That a public  
29 place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered  
30 or changed by reason of erection of poles or other supports or the underground laying  
31 of wires, other conductors or conduits, shall be repaired and replaced in workmanlike  
32 manner by said grantee, its successors or assignees, in accordance with the standards  
33 set by the DPWH or the LGU concerned. Should the grantee, its successors or  
34 assignees, after the ten (10)-day notice from the said authority, fail, refuse, or neglect  
35 to repair or replace any part of public place, road, highway, street, lane, alley, avenue,  
36 sidewalk, or bridge altered, changed or disturbed by the said grantee, its successors  
37 or assignees, then the DPWH or the LGU concerned shall have the right to have the  
38 same repaired and placed in good order and condition, and charge the grantee, its  
39 successors or assignees at double the amount of the costs and expenses for such  
40 repair or replacement.

41  
42 **SEC. 5. Responsibility to the Public.** - The grantee shall conform to the ethics  
43 of honest enterprise and not use its stations or facilities for obscene or indecent  
44 transmission, or for dissemination of deliberately false information, or willful  
45 misrepresentation, or assist in subversive or treasonable acts.

46  
47 The grantee shall operate and maintain all its stations, lines, cables, systems,  
48 and equipment for the transmission and reception of messages, signals, and pulses  
49 in a satisfactory manner at all times, and as far as economical and practicable, modify,  
50 improve, or change such stations, lines, cables, systems, and equipment to keep  
51 abreast with the advances in science and technology.

1 The grantee shall improve and extend its services in areas not yet served and  
2 in hazard- and typhoon-prone areas that shall be determined by the National Disaster  
3 Risk Reduction and Management Council or its legal successor, in coordination with  
4 the NTC.  
5

6 The grantee shall also improve and upgrade its equipment, facilities and  
7 services, in order to ensure effective compliance with the objectives of Republic Act  
8 No. 10639 or the "Free Mobile Disaster Alerts Act".  
9

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

18 **SEC. 7. Right of Government.** – The radio spectrum is a finite resource that  
19 is part of the national patrimony and the use thereof is a privilege conferred upon the  
20 grantee by the State and may be withdrawn any time after due process.  
21

22 A special right is hereby reserved to the President of the Philippines, in times  
23 of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace  
24 and order: to temporarily take over and operate the stations, transmitters, facilities, or  
25 equipment of the grantee; to temporarily suspend the operation of any station,  
26 transmitter, facility, or equipment in the interest of public safety, security, and public  
27 welfare; or to authorize the temporary use and operation thereof by any agency of the  
28 government, upon due compensation to the grantee for the use of the stations,  
29 transmitters, facilities, or equipment during the period when these shall be so operated.  
30

31 **SEC. 8. Term of Franchise.** – This franchise shall be in effect for a period of  
32 twenty-five (25) years from the date of the effectivity of this Act, unless sooner  
33 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee  
34 fails to operate continuously for two (2) years.  
35

36 ~~[SEC. 9. Renewal or Extension of Franchise. – The grantee shall apply for  
37 the renewal or extension of its franchise three (3) years before its expiration which shall  
38 be reckoned from fifteen (15) days after the publication of the franchise in the Official  
39 Gazette or in a newspaper of general circulation.]~~  
40

41 **SEC. [40] 9. Right of Interconnection.** – The grantee is hereby authorized to  
42 connect or demand connection of its telecommunications systems to other  
43 telecommunications systems installed, operated, and maintained by any other duly  
44 authorized person or entity in the Philippines for the purpose of providing extended  
45 and improved telecommunications services to the public, under the terms and  
46 conditions mutually agreed upon by the parties concerned. This right shall be subject  
47 to the review and modification of the NTC.  
48

49 **SEC. [44] 10. Warranty in Favor of the National and Local Governments.** -  
50 The grantee shall hold the national, provincial, city, and municipal governments of the  
51 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of  
52 accidents causing injury to persons or damage to properties, during the construction  
53 or operation of the stations, transmitters, facilities, or equipment of the grantee.

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

16           **SEC. [13] 12. Dispersal of Ownership.** - In accordance with the constitutional  
17 provision to encourage public participation in public utilities, the grantee shall offer to  
18 Filipino citizens at least thirty percent (30%) of its ~~common~~ OUTSTANDING  
19 CAPITAL stocks, or a higher percentage that may hereafter be provided by law, in any  
20 securities exchange in the Philippines within five (5) years from the effectivity of this  
21 Act: *Provided*, That in cases where public offer of shares is not applicable, other  
22 methods of encouraging public participation by citizens and corporations operating  
23 public utilities must be implemented. Noncompliance therewith shall render the  
24 franchise *ipso facto* revoked.  
25

26           **Sec. [14] 13. Commitment to Provide and Promote the Creation of**  
27 **Employment Opportunities.** – The grantee shall create employment opportunities  
28 and accept on-the-job trainees in the franchise operations: *Provided*, That priority shall  
29 be accorded to the residents of the place where the principal office of the grantee is  
30 located: ~~[Provided further, That the grantee shall ensure that at least sixty percent~~  
31 ~~(60%) of its employees are regular employees and in no case shall the percentage of~~  
32 ~~contractual, job order, or casual employees, and independent contractors combined,~~  
33 ~~exceed forty percent (40%) of its total workforce:]~~ *Provided*, [finally] **FURTHER**, That  
34 the grantee shall comply with the applicable labor standards and allowance entitlement  
35 under existing labor laws, rules and regulations, and similar issuances.  
36

37           The employment opportunities or jobs created shall be reflected in the General  
38 Information Sheet (GIS) to be submitted to the Securities and Exchange Commission  
39 (SEC) annually. ~~[In addition, the grantee shall include in its annual report to Congress~~  
40 ~~the number of trainees, job order workers, casual employees, and contract of service~~  
41 ~~workers whose employment status are made regular, and append the appropriate~~  
42 ~~certificate from the Department of Labor and Employment attesting that it has complied~~  
43 ~~with the employment requirement under this Section.]~~  
44

45           **SEC. [15] 14. Reportorial Requirement.** – The grantee shall submit an annual  
46 report on its compliance with the terms and conditions of the franchise and on its  
47 operations to the Congress of the Philippines, through the Committee on Legislative  
48 Franchises of the House of Representatives and the Committee on Public Services of  
49 the Senate, on or before April 30 of every year during the term of its franchise.  
50

51           The annual report shall include an update on the roll-out, development,  
52 operation or expansion of business; audited financial statements; latest GIS officially

1 submitted to the SEC, if applicable; certification of the NTC on the status of its permits  
2 and operations; and an update on the dispersal of ownership undertaking, if applicable.  
3

4 The reportorial compliance certificate issued by Congress shall be required  
5 before any application for permit or certificate is accepted by the NTC.  
6

7 **SEC. [16] 15. *Fine.*** – Failure of the grantee to submit the requisite annual report  
8 to Congress shall be penalized with a fine in the amount of One million pesos  
9 (P1,000,000.00) for each working day of noncompliance, the effectivity of which shall  
10 commence upon applicability with other telecommunications franchise grantees:  
11 *Provided, That* in the interim, the grantee shall be liable to pay the fine of Five hundred  
12 pesos (P500.00) per working day of noncompliance. The fine shall be collected by the  
13 NTC from the delinquent franchise grantee separate from the reportorial penalties  
14 imposed by the NTC, and the same shall be remitted to the Bureau of the Treasury.  
15

16 **SEC. [17] 16. *Equality Clause.*** – Any advantage, favor, privilege, exemption,  
17 or immunity granted under existing franchises, or which may hereafter be granted for  
18 telecommunications, upon prior review and approval of Congress, shall become part  
19 of this franchise and shall be accorded immediately and unconditionally to the herein  
20 grantee: *Provided, however,* That the foregoing shall neither apply to nor affect the  
21 provisions of telecommunications franchises concerning territory covered by the  
22 franchise, the life span of the franchise, or the type of service authorized by the  
23 franchise.  
24

25 **SEC. [18] 17. *Repealability and Nonexclusivity Clause.*** – This franchise  
26 shall be subject to amendment, alteration, or repeal by Congress when the public  
27 interest so requires and shall not be interpreted as an exclusive grant of the privilege  
28 herein provided for.  
29

30 **SEC. [19] 18. *Separability Clause.*** – If any of the sections or provisions of  
31 this Act is held invalid, all other provisions not affected thereby shall remain valid.  
32

33 **SEC. [20] 19. *Repealing Clause.*** – All laws, decrees, orders, resolutions,  
34 instructions, rules and regulations, and other issuances or parts thereof which are  
35 inconsistent with the provisions of this Act are hereby repealed, amended, or modified  
36 accordingly.  
37

38 **SEC. [21] 20. *Effectivity.*** – This Act shall take effect fifteen (15) days after its  
39 publication in the Official Gazette or in a newspaper of general circulation.

Approved,