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H. No. 8871

BY REPRESENTATIVES ALMARIO, ALVAREZ (F.), MACEDA, VIOLAGO, NOGRALES (J.J.), GUYA, DY (F.M.C.), GARCIA (P.J.), FORTUNO, RIVERA, ARENAS, ZUBIRI, QUIMBO, BORDADO, ALONTE, ROMUALDO, GULLAS, UNABIA, MARQUEZ, ROBES, BAUTISTA, VARGAS ALFONSO, FERRER (L.), CASTELO, TEJADA AND TAN (A.S.), PER COMMITTEE REPORT NO. 794

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MATI TELEPHONE CORPORATION UNDER REPUBLIC ACT NO. 8675, ENTITLED "AN ACT GRANTING THE MATI TELEPHONE CORPORATION A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE LOCAL EXCHANGE NETWORK IN THE PROVINCE OF DAVAO ORIENTAL

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 Mati Telephone Corporation, hereunder referred to as the grantee, its successor or
4 assignees, under Republic Act No. 8675, to construct, install, establish, operate, and
5 maintain for commercial purposes and in the public interest in the Province of Davao
6 Oriental, wire and wireless telecommunications system, copper, fiber optics, satellite
7 transmit and receive systems, switches and their value-added services such as the
8 transmission of voice, data, facsimile, control signs, audio and video, information
9 services and all other telecommunication system technologies as are at present
10 available or will be made available through technological advances or innovations in
11 the future; or construct, acquire, lease, and operate, or manage transmitting and
12 receiving stations, lines, cables, or systems as are convenient and essential to
13 efficiently carry out the purpose of this franchise, is hereby renewed for another twenty-
14 five (25) years.

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

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

20
21 In case of any violation of the provisions of this franchise, the NTC shall have
22 the authority to revoke or suspend, after due process, the permits or licenses it issued
23 pursuant to the franchise. The NTC may recommend to Congress the revocation of
24 the franchise for any violation of the provisions of this franchise.

25
26 **SEC. 4. Excavation and Restoration Works.** – For the purpose of erecting
27 and maintaining poles or other supports for said wires or other conductors for the
28 purpose of laying and maintaining underground wires, cables, or other conductors, it
29 shall be lawful for the grantee, its successors or assignees, with the prior approval of
30 the Department of Public Works and Highways (DPWH) or the local government unit
31 (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any
32 of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or
33 bridges of the province, cities, or municipalities: *Provided, however,* That a public
34 place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered

1 or changed by reason of erection of poles or other supports or the underground laying
2 of wires, other conductors or conduits, shall be repaired and replaced in workmanlike
3 manner by said grantee, its successors or assignees, in accordance with the standards
4 set by the DPWH or the LGU concerned. Should the grantee, its successors or
5 assignees, after the ten (10)-day notice from the said authority, fail, refuse, or neglect
6 to repair or replace any part of public place, road, highway, street, lane, alley, avenue,
7 sidewalk, or bridge altered, changed or disturbed by the said grantee, its successors
8 or assignees, then the DPWH or the LGU concerned shall have the right to have the
9 same repaired and placed in good order and condition, and charge the grantee, its
10 successors or assignees at double the amount of the costs and expenses for such
11 repair or replacement.

12
13 **SEC. 5. Responsibility to the Public.** - The grantee shall conform to the ethics
14 of honest enterprise and not use its stations or facilities for obscene or indecent
15 transmission, or for dissemination of deliberately false information, or willful
16 misrepresentation, or assist in subversive or treasonable acts.

17
18 The grantee shall operate and maintain all its stations, lines, cables, systems,
19 and equipment for the transmission and reception of messages, signals, and pulses in
20 a satisfactory manner at all times, and as far as economical and practicable, modify,
21 improve, or change such stations, lines, cables, systems, and equipment to keep
22 abreast with the advances in science and technology.

23
24 The grantee shall improve and extend its services in areas not yet served, and
25 in hazard- and typhoon-prone areas that shall be determined by the National Disaster
26 Risk Reduction and Management Council, or its legal successor, in coordination with
27 the NTC.

28
29 The grantee shall also improve and upgrade its equipment, facilities and
30 services, in order to ensure effective compliance with the objectives of Republic Act
31 No. 10639 or the "Free Mobile Disaster Alerts Act".

32
33 **SEC. 6. Rates for Services.** – The charges and rates for telecommunications
34 services of the grantee, except the rates and charges on those that may hereafter be
35 declared or considered as nonregulated services, whether flat rates or measured rates

1 or variations thereof, shall be subject to the approval of the NTC or its legal successor.
2 The rates to be charged by the grantee shall be unbundled, separable, and distinct
3 among the services offered and shall be determined in such a manner that regulated
4 services do not subsidize the unregulated ones.
5

6 **SEC. 7. Right of Government.** – The radio spectrum is a finite resource that
7 is part of the national patrimony and the use thereof is a privilege conferred upon the
8 grantee by the State and may be withdrawn any time after due process.
9

10 A special right is hereby reserved to the President of the Philippines, in times
11 of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace
12 and order: to temporarily take over and operate the stations, transmitters, facilities, or
13 equipment of the grantee; to temporarily suspend the operation of any station,
14 transmitter, facility, or equipment in the interest of public safety, security, and public
15 welfare; or to authorize the temporary use and operation thereof by any agency of the
16 government, upon due compensation to the grantee for the use of the stations,
17 transmitters, facilities, or equipment during the period when these shall be so operated.
18

19 **SEC. 8. Term of Franchise.** – This franchise shall be in effect for a period of
20 twenty-five (25) years from the date of the effectivity of this Act, unless sooner
21 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee
22 fails to operate continuously for two (2) years.
23

24 ~~**[SEC. 9. Renewal or Extension of Franchise.** – The grantee shall apply for~~
25 ~~the renewal or extension of its franchise three (3) years before its expiration which~~
26 ~~shall be reckoned from fifteen (15) days after the publication of the franchise in the~~
27 ~~Official Gazette or in a newspaper of general circulation.]~~
28

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

1 **SEC. [41] 10. *Warranty in Favor of the National and Local Governments.* -**

2 The grantee shall hold the national, provincial, city, and municipal governments of the
3 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of
4 accidents causing injury to persons or damage to properties, during the construction
5 or operation of the stations, transmitters, facilities, or equipment of the grantee.

6
7 **SEC. [42] 11. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of***
8 ***Franchise.*** – The grantee shall not sell, lease, transfer, grant the usufruct of, nor
9 assign this franchise or the rights and privileges acquired thereunder to any person,
10 firm, company, corporation, or other commercial or legal entity, nor merge with any
11 other corporation or entity, nor shall the controlling interest of the grantee be
12 transferred, simultaneously or contemporaneously, to any person, firm, company,
13 corporation, or entity without the prior approval of Congress. The grantee shall inform
14 Congress, through the Office of the Speaker and Office of the Senate President, of
15 any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and
16 privileges acquired thereunder, or of the merger or transfer of the controlling interest
17 of the grantee, within sixty (60) days after the completion of the said transaction.
18 Failure to report to Congress such change of ownership shall render the franchise *ipso*
19 *facto* revoked. Any person or entity to which this franchise is sold, transferred, or
20 assigned shall be subject to the same conditions, terms, restrictions, and limitations of
21 this Act.

22
23 **SEC. [43] 12. *Dispersal of Ownership.*** - In accordance with the constitutional
24 provision to encourage public participation in public utilities, the grantee shall offer to
25 Filipino citizens at least thirty percent (30%) of its [~~common~~] OUTSTANDING CAPITAL
26 stocks, or a higher percentage that may hereafter be provided by law, in any securities
27 exchange in the Philippines within five (5) years from the effectivity of this Act:
28 *Provided*, That in cases where public offer of shares is not applicable, other methods
29 of encouraging public participation by citizens and corporations operating public
30 utilities must be implemented. Noncompliance therewith shall render the franchise *ipso*
31 *facto* revoked.

32
33 **SEC. [44] 13. *Commitment to Provide and Promote the Creation of***
34 ***Employment Opportunities.*** – The grantee shall create employment opportunities
35 and accept on-the-job trainees in the franchise operations: *Provided*, That priority shall

1 be accorded to the residents of the place where the principal office of the grantee is
2 located: ~~[Provided further, That the grantee shall ensure that at least sixty percent~~
3 ~~(60%) of its employees are regular employees and in no case shall the percentage of~~
4 ~~contractual, job order, or casual employees, and independent contractors combined,~~
5 ~~exceed forty percent (40%) of its total workforce:]~~ *Provided, [finally] FURTHER,* That
6 the grantee shall comply with the applicable labor standards and allowance entitlement
7 under existing labor laws, rules and regulations, and similar issuances.
8

9 The employment opportunities or jobs created shall be reflected in the General
10 Information Sheet (GIS) to be submitted to the Securities and Exchange Commission
11 (SEC) annually. ~~[In addition, the grantee shall include in its annual report to Congress~~
12 ~~the number of trainees and workers whose employment status are made regular, and~~
13 ~~append the appropriate certificate from the Department of Labor and Employment~~
14 ~~attesting that it has complied with the employment requirement under this Section.]~~
15

16 **SEC. [15] 14. Reportorial Requirement.** – The grantee shall submit an annual
17 report on its compliance with the terms and conditions of the franchise and on its
18 operations to the Congress of the Philippines, through the Committee on Legislative
19 Franchises of the House of Representatives and the Committee on Public Services of
20 the Senate, on or before April 30 of every year during the term of its franchise.
21

22 The annual report shall include an update on the commencement of activities,
23 development, operation and/or expansion of business; audited financial statements;
24 latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the
25 status of its permits and operations; and an update on the dispersal of ownership
26 undertaking, if applicable.
27

28 The reportorial compliance certificate issued by Congress shall be required
29 before any application for permit or certificate is accepted by the NTC.
30

31 **SEC. [16] 15. Fine.** – Failure of the grantee to submit the requisite annual report
32 to Congress shall be penalized with a fine in the amount of One million pesos
33 (P1,000,000.00) each working day of noncompliance, the effectivity of which shall
34 commence upon applicability with other telecommunications franchise grantees:
35 *Provided,* That in the interim, the grantee shall be liable to pay the fine of Five hundred

1 pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be
2 collected separately from the reportorial penalties imposed by the NTC, and it shall be
3 remitted to the Bureau of the Treasury.

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

12
13 **SEC. [18] 17. *Repealability and Nonexclusivity Clause.*** – This franchise
14 shall be subject to amendment, alteration, or repeal by Congress when the public
15 interest so requires and shall not be interpreted as an exclusive grant of the privilege
16 herein provided for.

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

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

25
26 **SEC. [21] 20. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
27 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,