

(AS AMENDED BY THE SENATE)

CONGRESS OF THE PHILIPPINES
EIGHTEENTH CONGRESS
Second Regular Session

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HOUSE OF REPRESENTATIVES

H. No. 8872

BY REPRESENTATIVES MADRONA, 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, ALMARIO AND TAN (A.S.), PER COMMITTEE REPORT NO. 795

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO ODIONGAN TELEPHONE CORPORATION UNDER REPUBLIC ACT NO. 8956, ENTITLED "AN ACT GRANTING THE ODIONGAN TELEPHONE CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE NETWORK IN THE PROVINCE OF ROMBLON"

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 the
2 Constitution and applicable laws, rules and regulations, the franchise granted to
3 Odiongan Telephone Corporation, hereunder referred as the grantee, its successor or
4 assignees, under Republic Act No. 8956, to construct, install, establish, operate and
5 maintain for commercial purposes and in the public interest in the Province of
6 Romblon, wire and wireless telecommunications systems including copper, fiber
7 optics, satellite transmit and receive systems, switches and their value-added services
8 such as transmission of voice, data, facsimile, control signs, audio and video,
9 information services and all other telecommunications system technologies as are
10 present available or will be made available through technological advances or

1 innovations in the future; or construct, acquire, lease, and operate, or manage
2 transmitting and receiving stations, lines, cables, or systems, as are convenient or
3 essential to efficiently carry out the purpose of this franchise, is hereby renewed for
4 another twenty-five (25) years.

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

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

25
26 In case of any violation of the provisions of this franchise, the NTC shall have
27 the authority to revoke or suspend, after due process, the permits or licenses it issued
28 pursuant to the franchise. The NTC may recommend to Congress the revocation of
29 the franchise for any violation of the provisions of this franchise.

30
31 **SEC. 4. *Excavation and Restoration Works.*** – For the purpose of erecting and
32 maintaining poles or other supports for said wires or other conductors for the purpose
33 of laying and maintaining underground wires, cables, or other conductors, it shall be
34 lawful for the grantee, its successors or assignees, with the prior approval of the
35 Department of Public Works and Highways (DPWH) or the local government unit

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

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

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

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

32
33 The grantee shall also improve and upgrade its equipment, facilities and
34 services, in order to ensure effective compliance with the objectives of Republic Act
35 No. 10639 or the "Free Mobile Disaster Alerts Act".

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

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

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

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

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

31
32 SEC. [40] 9. *Right of Interconnection.* – The grantee is hereby authorized to
33 connect or demand connection of its telecommunications systems to other
34 telecommunications systems installed, operated, and maintained by any other duly

1 authorized person or entity in the Philippines for the purpose of providing extended
2 and improved telecommunications services to the public, under the terms and
3 conditions mutually agreed upon by the parties concerned. This right shall be subject
4 to the review and modification of the NTC.
5

6 SEC. [44] 10. *Warranty in Favor of the National and Local Governments.* - The
7 grantee shall hold the national, provincial, city, and municipal governments of the
8 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of
9 accidents causing injury to persons or damage to properties, during the construction
10 or operation of the stations, transmitters, facilities, or equipment of the grantee.
11

12 SEC. [42] 11. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of*
13 *Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign
14 this franchise or the rights and privileges acquired thereunder to any person, firm,
15 company, corporation, or other commercial or legal entity, nor merge with any other
16 corporation or entity, nor shall the controlling interest of the grantee be transferred,
17 simultaneously or contemporaneously, to any person, firm, company, corporation, or
18 entity without the prior approval of Congress. The grantee shall inform Congress,
19 through the Office of the Speaker and the Office of the Senate President, of any sale,
20 lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges
21 acquired thereunder, or of the merger or transfer of the controlling interest of the
22 grantee, within sixty (60) days after the completion of the said transaction. Failure to
23 report to Congress such change of ownership shall render the franchise *ipso facto*
24 revoked. Any person or entity to which this franchise is sold, transferred, or assigned
25 shall be subject to the same conditions, terms, restrictions, and limitations of this Act.
26

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

1 Sec. [44] 13. *Commitment to Provide and Promote the Creation of*
2 *Employment Opportunities.* – The grantee shall create employment opportunities and
3 accept on-the-job trainees in its franchise operations: *Provided*, That priority shall be
4 accorded to the residents of the place where the principal office of the grantee is
5 located: ~~[*Provided* further, That the grantee shall ensure that at least sixty percent~~
6 ~~(60%) of its employees are regular employees and in no case shall the percentage of~~
7 ~~contractual, job order, or casual employees, and independent contractors combined,~~
8 ~~exceed forty percent (40%) of its total workforce:] *Provided*, [*finally*,] *FURTHER*, That
9 the grantee shall comply with the applicable labor standards and allowance entitlement
10 under existing labor laws, rules and regulations, and similar issuances.~~

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

18
19 SEC. [45] 14. *Reportorial Requirement.* – The grantee shall submit an annual
20 report on its compliance with the terms and conditions of the franchise and on its
21 operations to the Congress of the Philippines, through the Committee on Legislative
22 Franchises of the House of Representatives and the Committee on Public Services of
23 the Senate, on or before April 30 of every year during the term of its franchise.

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

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

33
34 SEC. [46] 15. *Fine.* – Failure of the grantee to submit the requisite annual report
35 to Congress shall be penalized with a fine in the amount of One million pesos

1 (P1,000,000.00) for each working day of noncompliance, the effectivity of which shall
2 commence upon applicability with other telecommunications franchise grantees:
3 *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five hundred
4 pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be
5 collected separately from the reportorial penalties imposed by the NTC, and it shall be
6 remitted to the Bureau of the Treasury.

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

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

21
22 SEC. [19] 18. *Separability Clause*. – If any of the sections or provisions of this
23 Act is held invalid, all other provisions not affected thereby shall remain valid.

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

29
30 SEC. [21] 20. *Effectivity*. – This Act shall take effect fifteen (15) days after its
31 publication in the Official Gazette or in a newspaper of general circulation.

Approved,