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HOUSE OF REPRESENTATIVES

H. No. 8913

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BY REPRESENTATIVES SAKALURAN, ALVAREZ (F.), ROMUALDO, MACEDA, NOGRALES (J.J.), GUYA, DY (F.M.C.), GARCIA (P.J.), FORTUNO, RIVERA, ARENAS, ZUBIRI, VIOLAGO, QUIMBO, BORDADO, ALONTE, GULLAS, UNABIA, MARQUEZ, ROBES, BAUTISTA, VARGAS ALFONSO, FERRER (L.), CASTELO, TEJADA, ALMARIO, TAN (A.S.) AND HERNANDEZ, PER COMMITTEE REPORT NO. 818

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**AN ACT**

**RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MARBEL TELEPHONE SYSTEM, INC. (MTSI) UNDER REPUBLIC ACT NO. 8449, ENTITLED "AN ACT GRANTING THE MARBEL TELEPHONE SYSTEM, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE LOCAL EXCHANGE NETWORK IN THE PROVINCES OF SOUTH COTABATO, SULTAN KUDARAT, AND SARANGANI"**

*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 Marbel Telephone System, Inc. (MTSI), hereunder referred as the grantee, its  
4 successor or assignees, under Republic Act No. 8449, to construct, establish, install,  
5 maintain, and operate for commercial purposes and in the public interest, in the  
6 provinces of South Cotabato, Sultan Kudarat, and Sarangani, a local access  
7 network, wire or wireless telecommunications systems including copper, fiber optics,  
8 satellite transmit and receive systems, switches and their value-added services such  
9 as transmission of voice, data, facsimile, control signs, audio and video, information  
10 services, and all other telecommunications systems technologies as are at present

1 available or will be made available through technological advances or innovations in  
2 the future; 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, is hereby renewed for another  
5 twenty-five (25) years.

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

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

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

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32       SEC. 4. *Excavation and Restoration Works.* – For the purposes of erecting  
33 and maintaining poles or other supports for wires or other conductors and for laying  
34 and maintaining of underground wires, cables, or other conductors, it shall be lawful  
35 for the grantee, its successors or assignees, with the prior approval of the

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

17

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

22

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

28

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

33

1 The grantee shall also improve and upgrade its equipment, facilities and  
2 services, in order to ensure effective compliance with the objectives of Republic Act  
3 No. 10639 or the “Free Mobile Disaster Alerts Act”.

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

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

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

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

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

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

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

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

31  
32 SEC. [43] 12. *Dispersal of Ownership.* – In accordance with the constitutional  
33 provision to encourage public participation in public utilities, the grantee shall offer to  
34 Filipino citizens at least thirty percent (30%) of its [COMMON] OUTSTANDING  
35 CAPITAL stocks, or a higher percentage that may hereafter be provided by law, in

1 any securities exchange in the Philippines within five (5) years from the effectivity of  
2 this Act: *Provided*, That in cases where public offer of shares is not applicable, other  
3 methods of encouraging public participation by citizens and corporations operating  
4 public utilities must be implemented. Noncompliance therewith shall render the  
5 franchise *ipso facto* revoked.

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7 SEC. [14] 13. *Commitment to Provide and Promote the Creation of*  
8 *Employment Opportunities.* – The grantee shall create employment opportunities and  
9 accept on-the-job trainees in its franchise operations: *Provided*, That priority shall be  
10 accorded to the residents of the place where the principal office of the grantee is  
11 located: [~~*Provided* further, That the grantee shall ensure that at least sixty percent~~  
12 ~~(60%) of its employees are regular employees and in no case shall the percentage of~~  
13 ~~contractual, job order, or casual employees, and independent contractors combined,~~  
14 ~~exceed forty percent (40%) of its total workforce:]~~ *Provided*, [~~*finally*~~] *FURTHER*, That  
15 the grantee shall comply with the applicable labor standards and allowance  
16 entitlement under existing labor laws, rules and regulations, and similar issuances.

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

25  
26 SEC. [15] 14. *Reportorial Requirement.* – The grantee shall submit an annual  
27 report on its compliance with the terms and conditions of the franchise and on its  
28 operations to the Congress of the Philippines, through the Committee on Legislative  
29 Franchises of the House of Representatives and the Committee on Public Services  
30 of the Senate, on or before April 30 of every year during the term of its franchise.

31  
32 The annual report shall include an update on the commencement of activities,  
33 development, operation, and expansion of business; audited financial statements;  
34 latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the

1 status of its permits and operations; and an update on the dispersal of ownership  
2 undertaking, if applicable.

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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. [46] 15. *Fine.* – Failure of the grantee to submit the requisite annual  
8 report 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  
12 hundred pesos (P500.00) per working day of noncompliance to the NTC. The fine  
13 shall be collected separately from the reportorial penalties imposed by the NTC, and  
14 it shall be remitted to the Bureau of the Treasury.

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16 SEC. [47] 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.

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25 SEC. [48] 17. *Repealability and Nonexclusivity Clause.* – This franchise shall  
26 be subject to amendment, alteration, or repeal by Congress when the public interest  
27 so requires and shall not be interpreted as an exclusive grant of the privilege herein  
28 provided for.

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30 SEC. [49] 18. *Separability Clause.* – If any of the sections or provisions of this  
31 Act is held invalid, all other provisions not affected thereby shall remain valid.

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33 SEC. [20] 19. *Repealing Clause.* – All laws, decrees, orders, resolutions,  
34 instructions, rules and regulations, and other issuances or parts thereof which are

1 inconsistent with the provisions of this Act are hereby repealed, amended, or  
2 modified accordingly.

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4 SEC. [24] 20. *Effectivity.* – This Act shall take effect fifteen (15) days after its  
5 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,