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SENATE



COMMITTEE REPORT NO. 385

Submitted by the Committee on Public Services on DEC 13 2021

Re: **House Bill No. 8970**

Recommending its approval with amendments.

Sponsor: **Senator Grace Poe**

**MR. PRESIDENT:**

The Committee on Public Services, to which was referred **House Bill No. 8970**, introduced by **Representatives Pimentel, Alvarez (F.) and Maceda** entitled:

**AN ACT**

**RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., PRESENTLY KNOWN AS SMART BROADBAND, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES**

has considered the same and has the honor to report back to the Senate with the recommendation that it be approved with the following amendments:

1. On page 4, lines 27 to 30, delete the entire Section 9 on the 'Renewal or Extension of Franchise'.

Renumber the succeeding Sections accordingly.

2. On page 5, line 35, replace the word "common" with "**OUTSTANDING CAPITAL**".

3. On page 6, starting on line 11, delete the second proviso that begins with the word "Provided" and ends with the word "workforce" in line 14.

On the same line 14, replace the word "finally" with the word "**FURTHER**".

4. On the same page, lines 20 to 23, delete the second sentence that starts with the phrase "In addition".

Respectfully submitted,

  
**SEN. GRACE POE**  
Chairperson

*Vice-Chairpersons:*


  
**SEN. RAMON BONG REVILLA JR.**

**SEN. PANFILO M. LACSON**

  
**SEN. EMMANUEL "MANNY" D. PACQUIAO**

**SEN. WIN GATCHALIAN**


*Members:*

  
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**SEN. FRANCIS "TOL" N. TOLENTINO**

  
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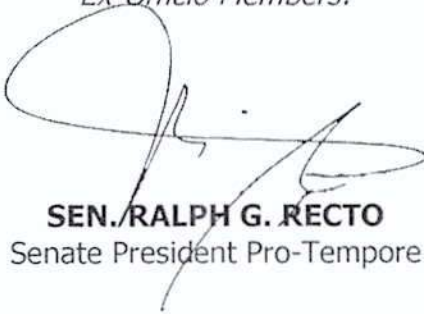
**SEN. RICHARD J. GORDON**



**SEN. FRANCIS "KIKO" N. PANGILINAN**

**SEN. RISA HONTIVEROS**

*Ex-Officio Members:*



**SEN. RALPH G. RECTO**  
Senate President Pro-Tempore



**SEN. JUAN MIGUEL F. ZUBIRI**  
Majority Leader



**SEN. FRANKLIN M. DRILON**  
Minority Leader

**HON. VICENTE C. SOTTO III**  
Senate President





HOUSE OF REPRESENTATIVES

H. No. 8970

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BY REPRESENTATIVES PIMENTEL, ALVAREZ (F.) AND MACEDA, PER COMMITTEE REPORT No. 843

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AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., PRESENTLY KNOWN AS SMART BROADBAND, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS 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 provisions of the  
2 Constitution and applicable laws, rules and regulations, the franchise granted to  
3 MERIDIAN TELEKOMS, INC., presently known as SMART BROADBAND, INC.,  
4 under Republic Act No. 8337, hereunder referred as the grantee, its successor or  
5 assignees, to construct, install, establish, maintain, lease and operate, for commercial  
6 purposes and in the public interest, throughout the Philippines and between the  
7 Philippines and other countries and territories, wired or wireless telecommunications  
8 systems including mobile, cellular, fixed line, trunked radio, fiber optics, multi-channel  
9 multipoint distribution system (MMDS), local multi-point distribution system (LMDS),  
10 satellite transmit and receive systems, switches, and value added services such as  
11 transmission of voice, data, images, facsimile, control signs, audio and video,  
12 information services, and all other telecommunications systems technologies as are  
13 present available or will be made available through technological advances or  
14 innovations in the future; or construct, acquire, lease, and operate or manage  
15 transmitting and receiving stations, landing stations of submarine cables, lines,  
16 systems, or other cables as it may consider necessary and convenient to efficiently

1 carry out the purpose of this franchise, is hereby renewed for another twenty-five (25)  
2 years.

3

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

11

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

23

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

28

29 SEC. 4. *Excavation and Restoration Works.* – For the purposes of erecting and  
30 maintaining poles or other supports for wires or other conductors and for laying and  
31 maintaining of underground wires, cables, or other conductors, it shall be lawful for the  
32 grantee, its successors or assignees, with the prior approval of the Department of  
33 Public Works and Highways (DPWH) or the local government unit (LGU) concerned,  
34 as may be appropriate, to make excavations or lay conduits in any of the public places,  
35 roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province,



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

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

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

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

30  
31 The grantee shall also improve and upgrade its equipment, facilities and  
32 services, in order to ensure effective compliance with the objectives of Republic Act  
33 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 twenty-  
23 five (25) years from the date of the effectivity of this Act, unless sooner cancelled. This  
24 franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate  
25 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. 10. *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  
35 authorized person or entity in the Philippines for the purpose of providing extended



1 and improved telecommunications services to the public, under the terms and  
2 conditions mutually agreed upon by the parties concerned. This right shall be subject  
3 to the review and modification of the NTC.  
4

5 SEC. 11. *Mobile Number Portability.* – The grantee shall provide mobile  
6 number portability (MNP) and its implementing mechanism, including the required  
7 infrastructure and processes, and shall interconnect, directly or indirectly, with the  
8 infrastructure, facilities, systems, or equipment of other telecommunications franchise  
9 grantees. It shall not install network features, functions, or capabilities that will impede  
10 the implementation of a nationwide MNP system.

11 SEC. 12. *Warranty in Favor of the National and Local Governments.* - The  
12 grantee shall hold the national, provincial, city, and municipal governments of the  
13 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of  
14 accidents causing injury to persons or damage to properties, during the construction  
15 or operation of the stations, transmitters, facilities, or equipment of the grantee.  
16

17 SEC. 13. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.*  
18 – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this  
19 franchise or the rights and privileges acquired thereunder to any person, firm,  
20 company, corporation, or other commercial or legal entity, nor merge with any other  
21 corporation or entity, nor shall the controlling interest of the grantee be transferred,  
22 simultaneously or contemporaneously, to any person, firm, company, corporation, or  
23 entity without the prior approval of Congress. The grantee shall inform Congress,  
24 through the Office of the Speaker of the House of Representatives and the Office of  
25 the Senate President, of any sale, lease, transfer, grant of usufruct, or assignment of  
26 franchise or the rights and privileges acquired thereunder, or of the merger or transfer  
27 of the controlling interest of the grantee, within sixty (60) days after the completion of  
28 the said transaction. Failure to report to Congress such change of ownership shall  
29 render the franchise *ipso facto* revoked. Any person or entity to which this franchise is  
30 sold, transferred, or assigned shall be subject to the same conditions, terms,  
31 restrictions, and limitations of this Act.  
32

33 SEC. 14. *Dispersal of Ownership.* - In accordance with the constitutional  
34 provision to encourage public participation in public utilities, the grantee shall offer to  
35 Filipino citizens at least thirty percent (30%) of its common stocks, or a higher



1 percentage that may hereafter be provided by law, in any securities exchange in the  
2 Philippines within five (5) years from the effectivity of this Act: *Provided*, That in cases  
3 where public offer of shares is not applicable, other methods of encouraging public  
4 participation by citizens and corporations operating public utilities must be  
5 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.  
6

7           *Sec. 15. Commitment to Provide and Promote the Creation of Employment*  
8 *Opportunities.* – The grantee shall create employment opportunities and accept on-  
9 the-job trainees in its franchise operations: *Provided*, That priority shall be accorded  
10 to the residents of the place where the principal office of the grantee is located:  
11 *Provided further*, That the grantee shall ensure that at least sixty percent (60%) of its  
12 employees are regular employees and in no case shall the percentage of contractual,  
13 job order, or casual employees, and independent contractors combined, exceed forty  
14 percent (40%) of its total workforce: *Provided, finally*, That the grantee shall comply  
15 with the applicable labor standards and allowance entitlement under existing labor  
16 laws, rules and regulations, and similar issuances.  
17

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

25           *SEC. 16. Reportorial Requirement.* – The grantee shall submit an annual report  
26 on its compliance with the terms and conditions of the franchise and on its operations  
27 to the Congress of the Philippines, through the Committee on Legislative Franchises  
28 of the House of Representatives and the Committee on Public Services of the Senate,  
29 on or before April 30 of every year during the term of its franchise.  
30

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

1  
2 The reportorial compliance certificate issued by Congress shall be required  
3 before any application for permit or certificate is accepted by the NTC.  
4

5 SEC. 17. *Fine.* – Failure of the grantee to submit the requisite annual report to  
6 Congress shall be penalized with a fine in the amount of One million pesos  
7 (P1,000,000.00) for each working day of noncompliance, the effectivity of which shall  
8 commence upon applicability with other telecommunications franchise grantees:  
9 *Provided, That* in the interim, the grantee shall be liable to pay the fine of Five hundred  
10 pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be  
11 collected separately from the reportorial penalties imposed by the NTC, and it shall be  
12 remitted to the Bureau of the Treasury.  
13

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

23 SEC. 19. *Repealability and Nonexclusivity Clause.* – This franchise shall be  
24 subject to amendment, alteration, or repeal by Congress when the public interest so  
25 requires and shall not be interpreted as an exclusive grant of the privilege herein  
26 provided for.  
27

28 SEC. 20. *Separability Clause.* – If any of the sections or provisions of this Act  
29 is held invalid, all other provisions not affected thereby shall remain valid.  
30

31 SEC. 21. *Repealing Clause.* – All laws, decrees, orders, resolutions,  
32 instructions, rules and regulations, and other issuances or parts thereof which are  
33 inconsistent with the provisions of this Act are hereby repealed, amended, or modified  
34 accordingly.  
35



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

3            Approved,