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SENATE



COMMITTEE REPORT NO. 387

Submitted by the Committee on Public Services on DEC 13 2021

Re: **House Bill No. 8974**

Recommending its approval with amendments.

Sponsor: **Senator Grace Poe**

MR. PRESIDENT:

The Committee on Public Services, to which was referred **House Bill No. 8974**, introduced by **Representatives Herrera-Dy, Alvarez (F.)** and **Maceda** entitled:

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO POLARIS TELECOMMUNICATIONS, INC., PRESENTLY KNOWN AS RADIUS TELECOMS, INC., UNDER REPUBLIC ACT NO. 8955, ENTITLED " AN ACT GRANTING THE POLARIS TELECOMMUNICATIONS, INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN 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 15 to 18, delete the entire Section 9 on the 'Renewal or Extension of Franchise'.

Renumber the succeeding Sections accordingly.

2. On page 5, line 18, replace the word "common" with "**OUTSTANDING CAPITAL**".

3. On page 5, starting on line 28, delete the second proviso that begins with the word "Provided" and ends with the word "workforce" in line 32.

On the same line 32, replace the word "finally" with the word "**FURTHER**".

4. On page 5, starting on line 38 up to page 6, line 2, delete the second sentence that starts with the phrase "In addition".

Respectfully submitted,


SEN. GRACE POE
Chairperson

Vice-Chairpersons:


SEN. RAMON BONG REVILLA JR.


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Majority Leader



SEN. FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President



HOUSE OF REPRESENTATIVES

H. No. 8974

BY REPRESENTATIVES HERRERA-DY, ALVAREZ (F.) AND MACEDA, PER COMMITTEE REPORT NO. 847

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO POLARIS TELECOMMUNICATIONS, INC., PRESENTLY KNOWN AS RADIUS TELECOMS, INC., UNDER REPUBLIC ACT NO. 8955, ENTITLED "AN ACT GRANTING THE POLARIS TELECOMMUNICATIONS, INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN 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 Polaris
3 Telecommunications, Inc., presently known as Radius Telecoms, Inc., hereunder referred
4 as the grantee, its successor or assignees, under Republic Act No. 8955, to construct,
5 install, establish, operate, and maintain for commercial purposes and in the public
6 interest, the business of providing basic and enhanced telecommunications services in
7 and between provinces, cities, and municipalities in the Philippines and between the
8 Philippines and other countries and territories, including mobile, cellular, and wired or
9 wireless telecommunications systems, fiber optics, multi-channel distribution systems,
10 local multipoint distribution system, satellite transmit and receive systems, and other
11 telecommunications systems and their value-added services such as the transmission of
12 voice, data, facsimile, control signals, audio and video, information services, and all other
13 telecommunications systems technologies as are at present available or will be made
14 available through technological advances and innovations in the future; or to construct,

1 acquire, lease, and operate, or manage transmitting and receiving stations, and switching
2 stations, both for local and international services, lines, cables or systems, and associated
3 equipment as are convenient or essential to efficiently carry out the purposes of this
4 franchise, is hereby renewed for 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 only
8 in the minimum interference on the wavelengths or frequencies of existing stations or
9 other stations which may be established by law, without in any way diminishing its own
10 right to use its assigned wavelengths or frequencies and the quality of transmission or
11 reception thereon as should maximize rendition of the grantee's services or the availability
12 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 licenses
17 for the construction, installation, and operation of its telecommunications systems or
18 facilities. In issuing the certificate, the NTC shall have the power to regulate and impose
19 such conditions relative to the construction, operation, maintenance, or service level of
20 the telecommunications systems or facilities. Such certificate shall state the areas
21 covered and the date the grantee shall commence the service. The grantee shall not use
22 any frequency in the radio spectrum without authorization from the NTC. The NTC,
23 however, shall not unreasonably withhold or delay the grant of such authority, permit or
24 license.
25

26 In case of any violation of the provisions of this franchise, the NTC shall have the
27 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 the
29 franchise for any violation of the provisions of this franchise.
30

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

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

10
11 **SEC. 5. Responsibility to the Public.** - The grantee shall conform to the ethics
12 of honest enterprise and not use its stations or facilities for obscene or indecent
13 transmission, or for dissemination of deliberately false information, or willful
14 misrepresentation, or assist in subversive or treasonable acts.

15
16 The grantee shall operate and maintain all its stations, lines, cables, systems, and
17 equipment for the transmission and reception of messages, signals, and pulses in a
18 satisfactory manner at all times, and as far as economical and practicable, modify,
19 improve, or change such stations, lines, cables, systems, and equipment to keep abreast
20 with the advances in science and technology.

21
22 The grantee shall improve and extend its services in areas not yet served, and in
23 hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk
24 Reduction and Management Council, or its legal successor, in coordination with the NTC.

25
26 The grantee shall also improve and upgrade its equipment, facilities, and services,
27 in order to ensure effective compliance with the objectives of Republic Act No. 10639 or
28 the "Free Mobile Disaster Alerts Act".

29
30 **SEC. 6. Rates for Services.** - The charges and rates for telecommunications
31 services of the grantee, except the rates and charges on those that may hereafter be
32 declared or considered as nonregulated services, whether flat rates or measured rates or
33 variations thereof, shall be subject to the approval of the NTC or its legal successor. The
34 rates to be charged by the grantee shall be unbundled, separable, and distinct among the
35 services offered and shall be determined in such a manner that regulated services do not
36 subsidize the unregulated ones.

37
38 **SEC. 7. Right of Government.** - The radio spectrum is a finite resource that is
39 part of the national patrimony and the use thereof is a privilege conferred upon the grantee
40 by the State and may be withdrawn any time after due process.

1 A special right is hereby reserved to the President of the Philippines, in times of
2 war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace and
3 order: to temporarily take over and operate the stations, transmitters, facilities, or
4 equipment of the grantee; to temporarily suspend the operation of any station, transmitter,
5 facility, or equipment in the interest of public safety, security, and public welfare; or to
6 authorize the temporary use and operation thereof by any agency of the government,
7 upon due compensation to the grantee for the use of the stations, transmitters, facilities,
8 or equipment during the period when these shall be so operated.

9
10 **SEC. 8. Term of Franchise.** – This franchise shall be in effect for a period of
11 twenty-five (25) years from the date of the effectivity of this Act, unless sooner cancelled.
12 This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate
13 continuously for two (2) years.

14
15 **SEC. 9. Renewal or Extension of Franchise.** – The grantee shall apply for the
16 renewal or extension of its franchise three (3) years before its expiration which shall be
17 reckoned from fifteen (15) days after the publication of the franchise in the *Official Gazette*
18 or in a newspaper of general circulation.

19
20 **SEC. 10. Right of Interconnection.** – The grantee is hereby authorized to connect
21 or demand connection of its telecommunications systems to other telecommunications
22 systems installed, operated, and maintained by any other duly authorized person or entity
23 in the Philippines for the purpose of providing extended and improved
24 telecommunications services to the public, under the terms and conditions mutually
25 agreed upon by the parties concerned. This right shall be subject to the review and
26 modification of the NTC.

27
28 **SEC. 11. Mobile Number Portability.** – The grantee shall provide mobile number
29 portability (MNP) and its implementing mechanism, including the required infrastructure
30 and processes, and shall interconnect, directly or indirectly, with the infrastructure,
31 facilities, systems, or equipment of other telecommunications franchise grantees. It shall
32 not install network features, functions, or capabilities that will impede the implementation
33 of a nationwide MNP system.

34
35 **SEC. 12. Warranty in Favor of the National and Local Governments.** - The
36 grantee shall hold the national, provincial, city, and municipal governments of the
37 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of
38 accidents causing injury to persons or damage to properties, during the construction or
39 operation of the stations, transmitters, facilities, or equipment of the grantee.

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

16 **SEC. 14. 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 stocks, or a higher percentage
19 that may hereafter be provided by law, in any securities exchange in the Philippines within
20 five (5) years from the effectivity of this Act: *Provided*, That in cases where public offer of
21 shares is not applicable, other methods of encouraging public participation by citizens
22 and corporations operating public utilities must be implemented. Noncompliance
23 therewith shall render the franchise *ipso facto* revoked.
24

25 **Sec. 15. Commitment to Provide and Promote the Creation of Employment**
26 **Opportunities.** – The grantee shall create employment opportunities and accept on-the-
27 job trainees in the franchise operations: *Provided*, That priority shall be accorded to the
28 residents of the place where the principal office of the grantee is located: *Provided further*,
29 That the grantee shall ensure that at least sixty percent (60%) of its employees are
30 regular employees and in no case shall the percentage of contractual, job order, or casual
31 employees, and independent contractors combined, exceed forty percent (40%) of its
32 total workforce: *Provided, finally*, That the grantee shall comply with the applicable labor
33 standards and allowance entitlement under existing labor laws, rules and regulations and
34 similar issuances.
35

36 The employment opportunities or jobs created shall be reflected in the General
37 Information Sheet (GIS) to be submitted to Securities and Exchange Commission (SEC)
38 annually. In addition, the grantee shall include in its annual report to Congress the number
39 of trainees and workers whose employment status are made regular, and append the

1 appropriate certificate from the Department of Labor and Employment attesting that it has
2 complied with the employment requirement under this Section.

3
4 **SEC. 16. Reportorial Requirement.** – The grantee shall submit an annual report
5 on its compliance with the terms and conditions of the franchise and on its operations to
6 the Congress of the Philippines, through the Committee on Legislative Franchises of the
7 House of Representatives and the Committee on Public Services of the Senate, on or
8 before April 30 of every year during the term of its franchise.

9
10 The annual report shall include an update on the commencement of activities,
11 development, operation, and expansion of business; audited financial statements; latest
12 GIS officially submitted to the SEC, if applicable; certification of the NTC on the status of
13 its permits and operations; and an update on the dispersal of ownership undertaking, if
14 applicable.

15
16 The reportorial compliance certificate issued by Congress shall be required before
17 any application for permit or certificate is accepted by the NTC.

18
19 **SEC. 17. Fine.** – Failure of the grantee to submit the requisite annual report to
20 Congress shall be penalized with a fine in the amount of One million pesos
21 (P1,000,000.00) for each working day of noncompliance, the effectivity of which shall
22 commence upon applicability with other telecommunications franchise grantees:
23 *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five hundred
24 pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be
25 collected separately from the reportorial penalties imposed by the NTC, and it shall be
26 remitted to the Bureau of the Treasury.

27
28 **SEC. 18. Equality Clause.** – Any advantage, favor, privilege, exemption, or
29 immunity granted under existing franchises, or which may hereafter be granted for
30 telecommunications, upon prior review and approval of Congress, shall become part of
31 this franchise and shall be accorded immediately and unconditionally to the herein
32 grantee: *Provided, however*, That the foregoing shall neither apply to nor affect the
33 provisions of telecommunications franchises concerning territory covered by the
34 franchise, the life span of the franchise, or the type of service authorized by the franchise.

35
36 **SEC. 19. Repealability and Nonexclusivity Clause.** – This franchise shall be
37 subject to amendment, alteration, or repeal by Congress when the public interest so
38 requires and shall not be interpreted as an exclusive grant of the privilege herein provided
39 for.

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

3
4 **SEC. 21. *Repealing Clause.*** – All laws, decrees, orders, resolutions, instructions,
5 rules and regulations, and other issuances or parts thereof which are inconsistent with
6 the provisions of this Act are hereby repealed, amended, or modified accordingly.

7
8 **SEC. 22. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
9 publication in the *Official Gazette* or in a newspaper of general circulation.

10
11 Approved,