


THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
Third Regular Session

6 NOV 15 P5:55

SENATE

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COMMITTEE REPORT NO. 158

Submitted by the Committee on Public Services on 15 NOV 2006

Re : House Bill No. 5512

Recommending its approval with amendments.

Sponsor: Senator Arroyo

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**MR. PRESIDENT:**

The Committee on Public Services, to which was referred House Bill No. 5512, introduced by Representatives Ortega and Zubiri, entitled:

**“AN ACT  
FURTHER AMENDING THE FRANCHISE OF LA UNION ELECTRIC  
COMPANY, INC. UNDER REPUBLIC ACT NO. 1225, AS AMENDED, TO  
CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR  
THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE  
CITY OF SAN FERNANDO AND THE MUNICIPALITIES OF BAUANG AND  
SAN JUAN, PROVINCE OF LA UNION, AND RENEWING/EXTENDING THE  
TERM OF THE FRANCHISE TO ANOTHER TWENTY-FIVE (25) YEARS FROM  
THE DATE OF APPROVAL OF THIS ACT.”**

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

1. On page 7, before Section 9 (Right of Eminent Domain), insert a new section to read as follows:

**SEC. \_\_\_\_.** *Tax Provisions.* – The grantee, its successors or assigns, shall be subject to the payment of all taxes, duties, fees or charges and other impositions applicable to private electric utilities under the National Internal Revenue Code (NIRC) of 1997, as amended, the Local Government Code and other applicable laws: *Provided*, That nothing herein shall be construed as repealing any specific tax exemptions, incentives, or privileges granted under any relevant law: *Provided further*, that all rights, privileges, benefits and exemptions accorded to existing and future private electric utilities by their respective franchises shall likewise be extended to the grantee.

The grantee shall file the return with the city where its principal place of business is located and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the NIRC and the return shall be subject to audit by the Bureau of Internal Revenue.

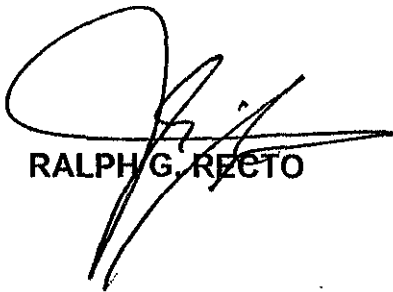
2. Renumber the sections accordingly.

Respectfully submitted:



**JOKER P. ARROYO**  
Chairman

Members:

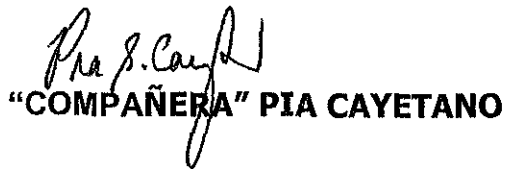


**RALPH G. RECTO**



**MAR ROXAS**

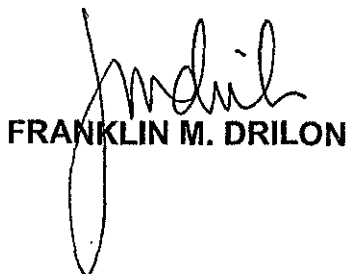
**RICHARD J. GORDON**



**"COMPAÑERA" PIA CAYETANO**



**JUAN PONCE ENRILE**



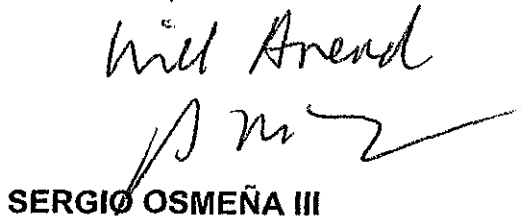
**FRANKLIN M. DRILON**



**EDGARDO J. ANGARA**



**PANFILO M. LACSON**



**SERGIO OSMEÑA III**

**M.A. MADRIGAL**



## HOUSE OF REPRESENTATIVES

H. No. 5512

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BY REPRESENTATIVES ORTEGA AND ZUBIRI, PER COMMITTEE REPORT  
No. 1711

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AN ACT FURTHER AMENDING THE FRANCHISE OF LA UNION ELECTRIC COMPANY, INC. UNDER REPUBLIC ACT NO. 1225, AS AMENDED, TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITY OF SAN FERNANDO AND THE MUNICIPALITIES OF BAUANG AND SAN JUAN, PROVINCE OF LA UNION, AND RENEWING/EXTENDING THE TERM OF THE FRANCHISE TO ANOTHER TWENTY-FIVE (25) YEARS FROM THE DATE OF APPROVAL OF THIS ACT

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

1           SECTION 1. The franchise granted to La Union Electric Company, Inc.  
2 under Republic Act No. 1225, as amended, is hereby further amended to read  
3 as follows:

4                           “SECTION 1. *NATURE AND SCOPE OF FRANCHISE.* –

5                           SUBJECT TO THE PROVISIONS OF THE CONSTITUTION AND

1           APPLICABLE LAWS, RULES AND REGULATIONS, THERE IS  
2           HEREBY GRANTED TO LA UNION ELECTRIC COMPANY, INC.,  
3           HEREUNDER REFERRED TO AS THE GRANTEE, ITS SUCCESSORS  
4           OR ASSIGNS, A FRANCHISE TO CONSTRUCT, OPERATE AND  
5           MAINTAIN, IN THE PUBLIC INTEREST AND FOR COMMERCIAL  
6           PURPOSES, A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF  
7           ELECTRIC POWER TO THE END-USERS IN THE CITY OF SAN  
8           FERNANDO AND THE MUNICIPALITIES OF BAUANG AND SAN  
9           JUAN, PROVINCE OF LA UNION.

10           “AS USED IN THIS ACT, DISTRIBUTION SYSTEM REFERS  
11           TO THE SYSTEM OF WIRES AND ASSOCIATED FACILITIES  
12           INCLUDING SUB-TRANSMISSION LINES BELONGING TO A  
13           FRANCHISED DISTRIBUTION UTILITY EXTENDING BETWEEN  
14           THE DELIVERY POINT ON THE NATIONAL TRANSMISSION  
15           SYSTEM OR GENERATING FACILITY AND THE METERING  
16           POINT/FACILITY OF THE END-USER.”

17           “SEC. 2. *MANNER OF OPERATIONS OF FACILITIES.* —  
18           ALL ELECTRIC DISTRIBUTION FACILITIES, LINES AND SYSTEMS  
19           FOR ELECTRIC SERVICES OWNED, MAINTAINED, OPERATED OR  
20           MANAGED BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNS,  
21           SHALL BE OPERATED AND MAINTAINED AT ALL TIMES IN A  
22           SUPERIOR MANNER, AND IT SHALL BE THE DUTY OF THE

1 GRANTEE, ITS SUCCESSORS OR ASSIGNS, WHENEVER REQUIRED  
2 TO DO SO BY THE ENERGY REGULATORY COMMISSION,  
3 HEREAFTER REFERRED TO AS THE ERC, OR ITS LEGAL  
4 SUCCESSOR, OR THE DEPARTMENT OF ENERGY, HEREINAFTER  
5 REFERRED TO AS THE DOE, OR ITS LEGAL SUCCESSOR, OR  
6 ANY OTHER GOVERNMENT AGENCY CONCERNED, TO MODIFY,  
7 IMPROVE AND CHANGE SUCH FACILITIES OR SYSTEMS IN SUCH  
8 MANNER AND TO SUCH EXTENT AS THE PROGRESS IN SCIENCE  
9 AND IMPROVEMENTS IN THE ELECTRIC POWER SERVICES MAY  
10 RENDER REASONABLE AND PROPER.

11 "WHENEVER PRACTICABLE AND FOR PURPOSES OF  
12 MAINTAINING ORDER, SAFETY AND AESTHETICS ALONG THE  
13 HIGHWAYS, ROADS, STREETS, ALLEYS OR RIGHT-OF-WAY, THE  
14 GRANTEE MAY ALLOW THE USE OF FREE SPACES IN ITS POLES,  
15 FACILITIES OR RIGHT-OF-WAY BY INTERESTED PARTIES UPON  
16 REASONABLE COMPENSATION TO THE GRANTEE, CONSIDERING  
17 COSTS INCURRED TO ACCOMMODATE AND ADMINISTER THE  
18 USE OF THE GRANTEE'S FACILITIES BY SUCH PARTIES. THE  
19 ERC SHALL DECIDE IN CASE OF DISPUTE OR DISAGREEMENT  
20 BETWEEN THE PARTIES."

21 "SEC. 3. *AUTHORITY OF THE ENERGY REGULATORY*  
22 *COMMISSION.* - THE GRANTEE SHALL SECURE FROM THE

1           ERC, OR ANY OTHER GOVERNMENT AGENCY WHICH HAS  
2           JURISDICTION OVER THE OPERATION OF THE HEREIN  
3           GRANTEE, THE NECESSARY CERTIFICATE OF PUBLIC  
4           CONVENIENCE AND NECESSITY AND OTHER APPROPRIATE  
5           PERMITS AND LICENSES FOR THE CONSTRUCTION AND  
6           OPERATION OF ITS ELECTRIC DISTRIBUTION SYSTEM.”

7           “SEC. 4. *INGRESS AND EGRESS.* – FOR THE PURPOSE OF  
8           ERECTING AND MAINTAINING POLES AND OTHER SUPPORTS  
9           FOR SAID FACILITIES, WIRES OR OTHER CONDUCTORS, OR FOR  
10          THE PURPOSE OF LAYING AND MAINTAINING SAID FACILITIES,  
11          WIRES, CABLES OR OTHER CONDUCTORS, IT SHALL BE  
12          LAWFUL FOR THE GRANTEE, ITS SUCCESSORS OR ASSIGNS,  
13          WITH THE PRIOR APPROVAL OF THE DEPARTMENT OF PUBLIC  
14          WORKS AND HIGHWAYS (DPWH) OR THE LOCAL  
15          GOVERNMENT UNITS (LGUS) CONCERNED, AS MAY BE  
16          APPROPRIATE, TO MAKE EXCAVATIONS OR LAY CONDUITS IN  
17          ANY OF THE PUBLIC PLACES, HIGHWAYS, STREETS, LANES,  
18          ALLEYS, AVENUES, SIDEWALKS OR BRIDGES OF SAID  
19          PROVINCES AND/OR MUNICIPALITIES: *PROVIDED, HOWEVER,*  
20          THAT ANY PUBLIC PLACE, HIGHWAY, STREET, LANE, ALLEY,  
21          AVENUE, SIDEWALK OR BRIDGE DISTURBED, ALTERED OR  
22          CHANGED BY REASON OF THE ERECTION OF POLES OR OTHER

1 SUPPORTS, OR THE LAYING OF WIRES, OTHER CONDUCTORS  
2 OR CONDUITS SHALL BE IMMEDIATELY REPAIRED AND  
3 PROPERLY RESTORED AT THE EXPENSE OF THE GRANTEE, ITS  
4 SUCCESSORS OR ASSIGNS, IN ACCORDANCE WITH THE  
5 STANDARDS SET BY THE DPWH AND THE LGUS.”

6 “SEC. 5. *RESPONSIBILITY TO THE PUBLIC.* – THE  
7 GRANTEE SHALL SUPPLY ELECTRICITY TO ITS CAPTIVE  
8 MARKET IN THE LEAST COST MANNER. IN THE INTEREST OF  
9 THE PUBLIC GOOD AND AS FAR AS FEASIBLE AND WHENEVER  
10 REQUIRED BY THE ERC, THE GRANTEE SHALL MODIFY,  
11 IMPROVE OR CHANGE ITS FACILITIES, POLES, LINES, SYSTEMS  
12 AND EQUIPMENT FOR THE PURPOSE OF PROVIDING EFFICIENT  
13 AND RELIABLE SERVICE AND REDUCED ELECTRICITY COSTS.  
14 THE GRANTEE SHALL CHARGE REASONABLE AND JUST POWER  
15 RATES FOR ITS SERVICES TO ALL TYPES OF CONSUMERS  
16 WITHIN ITS FRANCHISED AREAS IN ORDER THAT BUSINESS AND  
17 INDUSTRIES SHALL BE ABLE TO COMPETE.

18 “THE GRANTEE SHALL HAVE THE OBLIGATION TO  
19 PROVIDE OPEN AND NONDISCRIMINATORY ACCESS TO ITS  
20 DISTRIBUTION SYSTEM AND SERVICES FOR ANY END-USER  
21 WITHIN ITS FRANCHISE AREA CONSISTENT WITH REPUBLIC  
22 ACT NO. 9136. THE GRANTEE SHALL NOT ENGAGE IN ANY  
23 ACTIVITY THAT WILL CONSTITUTE AN ABUSE OF MARKET

1 POWER SUCH AS, BUT NOT LIMITED TO, UNFAIR TRADE  
2 PRACTICES, MONOPOLISTIC SCHEMES AND ANY ACTIVITY  
3 THAT WILL HINDER COMPETITIVENESS OF BUSINESSES AND  
4 INDUSTRIES.”

5 “SEC. 6. *RATES FOR SERVICES.* – THE RETAIL RATES  
6 TO ITS CAPTIVE MARKET AND CHARGES FOR THE  
7 DISTRIBUTION OF ELECTRIC POWER BY THE GRANTEE TO ITS  
8 END-USER SHALL BE REGULATED BY AND SUBJECT TO THE  
9 APPROVAL OF THE ERC OR ITS LEGAL SUCCESSOR.

10 “THE GRANTEE SHALL IDENTIFY AND SEGREGATE IN ITS  
11 ELECTRICITY BILL TO THE END-USERS THE COMPONENTS OF  
12 THE RETAIL RATE PURSUANT TO REPUBLIC ACT NO. 9136,  
13 UNLESS OTHERWISE AMENDED. SUCH RATES CHARGED BY  
14 THE GRANTEE TO THE END-USERS SHALL BE MADE PUBLIC AND  
15 TRANSPARENT. THE GRANTEE SHALL IMPLEMENT LIFELINE  
16 RATE TO MARGINALIZED END-USERS AS MANDATED UNDER  
17 REPUBLIC ACT NO. 9136.”

18 “SEC. 7. *PROMOTION OF CONSUMER INTERESTS.* – THE  
19 HEREIN GRANTEE SHALL ESTABLISH A CONSUMER DESK THAT  
20 WILL HANDLE CONSUMER COMPLAINTS AND ENSURE  
21 ADEQUATE PROMOTION OF CONSUMER INTERESTS. THE  
22 GRANTEE SHALL ACT WITH DISPATCH ON ALL COMPLAINTS  
23 BROUGHT BEFORE IT.”



1           “SEC. 8. *RIGHT OF THE GOVERNMENT.* – A SPECIAL  
2           RIGHT IS HEREBY RESERVED TO THE PRESIDENT OF THE  
3           PHILIPPINES IN TIMES OF WAR, REBELLION, PUBLIC PERIL,  
4           CALAMITY, EMERGENCY, DISASTER OR DISTURBANCE OF  
5           PEACE AND ORDER TO TAKE OVER AND OPERATE THE  
6           DISTRIBUTION SYSTEM OF THE GRANTEE OR TO AUTHORIZE  
7           THE TEMPORARY USE AND OPERATION THEREOF BY ANY  
8           AGENCY/DEPARTMENT OF THE GOVERNMENT UPON DUE  
9           COMPENSATION TO THE GRANTEE FOR THE USE OF THE SAID  
10          DISTRIBUTION SYSTEM DURING THE PERIOD WHEN THEY  
11          SHALL BE SO OPERATED.”

12           “SEC. 9. *RIGHT OF EMINENT DOMAIN.* – SUBJECT TO  
13          THE LIMITATIONS AND PROCEDURES PRESCRIBED BY LAW,  
14          THE GRANTEE IS AUTHORIZED TO EXERCISE THE RIGHT OF  
15          EMINENT DOMAIN INsofar AS IT MAY BE REASONABLY  
16          NECESSARY FOR THE EFFICIENT MAINTENANCE AND  
17          OPERATION OF SERVICES. THE GRANTEE IS AUTHORIZED TO  
18          INSTALL AND MAINTAIN ITS POLES, WIRES AND OTHER  
19          FACILITIES OVER AND ACROSS PUBLIC PROPERTY, INCLUDING  
20          STREETS, HIGHWAYS, FOREST RESERVES AND OTHER SIMILAR  
21          PROPERTY OF THE GOVERNMENT OF THE PHILIPPINES, ITS  
22          BRANCHES OR ANY OF ITS INSTRUMENTALITIES. THE  
23          GRANTEE MAY ACQUIRE SUCH PRIVATE PROPERTY AS IS

1 ACTUALLY NECESSARY FOR THE REALIZATION OF THE  
2 PURPOSES FOR WHICH THIS FRANCHISE IS GRANTED:  
3 *PROVIDED*, THAT PROPER CONDEMNATION PROCEEDINGS  
4 SHALL HAVE BEEN INSTITUTED AND JUST COMPENSATION  
5 PAID.”

6 “SEC. 10. *WARRANTY IN FAVOR OF NATIONAL AND*  
7 *LOCAL GOVERNMENT.* – THE GRANTEE SHALL HOLD THE  
8 NATIONAL, PROVINCIAL AND MUNICIPAL GOVERNMENTS OF  
9 THE PHILIPPINES HARMLESS FROM ALL CLAIMS, ACCOUNTS,  
10 DEMANDS OR ACTIONS ARISING OUT OF ACCIDENTS OR  
11 INJURIES, WHETHER TO PROPERTY OR PERSONS, CAUSED BY  
12 THE CONSTRUCTION, INSTALLATION, OPERATION AND  
13 MAINTENANCE OF THE DISTRIBUTION SYSTEM OF THE  
14 GRANTEE.”

15 “SEC. 11. *LIABILITY FOR DAMAGES.* – THE GRANTEE  
16 SHALL BE LIABLE FOR ANY INJURY AND DAMAGE ARISING  
17 FROM OR CAUSED BY ACCIDENT TO PERSONS AND PROPERTY  
18 BY REASON OF ANY DEFECTIVE CONSTRUCTION UNDER THIS  
19 FRANCHISE OR OF ANY NEGLECT OR OMISSION TO KEEP ITS  
20 POLES AND WIRES IN A SAFE CONDITION.”

21 “SEC. 12. *SALE, LEASE, TRANSFER, USUFRUCT, ETC.* –  
22 THE GRANTEE SHALL NOT LEASE, TRANSFER, GRANT THE  
23 USUFRUCT OF OR SELL THIS FRANCHISE OR THE RIGHTS AND

1 PRIVILEGES ACQUIRED THEREUNDER TO ANY PERSON, FIRM,  
2 COMPANY, CORPORATION OR OTHER COMMERCIAL OR LEGAL  
3 ENTITY, NOR MERGE WITH ANY OTHER CORPORATION OR  
4 ENTITY, NOR SHALL THE CONTROLLING INTEREST OF THE  
5 GRANTEE BE TRANSFERRED, WHETHER IN WHOLE OR IN PART,  
6 AND WHETHER SIMULTANEOUSLY OR CONTEMPORANEOUSLY,  
7 TO ANY SUCH PERSON, FIRM, COMPANY, CORPORATION OR  
8 ENTITY WITHOUT THE PRIOR APPROVAL OF THE CONGRESS OF  
9 THE PHILIPPINES. ANY PERSON OR ENTITY TO WHICH THIS  
10 FRANCHISE IS SOLD, TRANSFERRED OR ASSIGNED SHALL BE  
11 SUBJECT TO THE SAME CONDITIONS, TERMS, RESTRICTIONS  
12 AND LIMITATIONS OF THIS ACT.”

13 “SEC. 13. *EQUALITY CLAUSE.* – IN THE EVENT THAT  
14 ANY COMPETING INDIVIDUAL, PARTNERSHIP OR CORPORATION  
15 SHALL RECEIVE A SIMILAR PERMIT OR FRANCHISE WITH  
16 TERMS AND/OR PROVISIONS MORE FAVORABLE THAN THOSE  
17 HEREIN GRANTED OR WHICH TEND TO PLACE THE HEREIN  
18 GRANTEE AT ANY DISADVANTAGE, SUCH TERMS AND/OR  
19 PROVISIONS SHALL BE DEEMED PART HEREOF AND SHALL  
20 OPERATE EQUALLY IN FAVOR OF THE HEREIN GRANTEE:  
21 *PROVIDED,* THAT ANY TERMS AND/OR PROVISIONS HEREIN  
22 GRANTED WHICH ARE NOT CONTAINED IN OTHER FRANCHISES

1 THAT MAY HEREAFTER BE GRANTED SHALL LIKEWISE BE  
2 ENJOYED BY THE FUTURE GRANTEEES: *PROVIDED, HOWEVER,*  
3 THAT THE FOREGOING SHALL NEITHER APPLY TO NOR AFFECT  
4 THE PROVISIONS CONCERNING TERRITORY COVERED BY THE  
5 FRANCHISE AND THE LIFE SPAN OF THE FRANCHISE.”

6 “SEC. 14. *SEPARABILITY CLAUSE.* – IF FOR ANY  
7 REASON, ANY OF THE SECTIONS OR PROVISIONS OF THIS ACT  
8 IS DECLARED UNCONSTITUTIONAL OR INVALID, THE OTHER  
9 PARTS OR PROVISIONS HEREOF WHICH ARE NOT AFFECTED  
0 THEREBY SHALL CONTINUE TO BE IN FULL FORCE AND  
1 EFFECT.”

2 “SEC. 15. *APPLICABILITY CLAUSE.* – THE GRANTEE  
3 SHALL COMPLY WITH AND BE SUBJECT TO THE PROVISIONS OF  
4 COMMONWEALTH ACT NO. 146, AS AMENDED, OTHERWISE  
5 KNOWN AS THE ‘PUBLIC SERVICES ACT’ AND REPUBLIC ACT  
6 NO. 9136, OTHERWISE KNOWN AS THE ‘ELECTRIC POWER  
7 INDUSTRY REFORM ACT OF 2001’.”

8 “SEC. 16. *REPEALABILITY AND NONEXCLUSIVITY*  
9 *CLAUSE.* – THIS FRANCHISE SHALL BE SUBJECT TO  
0 AMENDMENT, ALTERATION OR REPEAL BY THE CONGRESS OF  
1 THE PHILIPPINES WHEN THE PUBLIC INTEREST SO REQUIRES

1 AND SHALL NOT BE INTERPRETED AS AN EXCLUSIVE GRANT OF  
2 THE PRIVILEGES HEREIN PROVIDED FOR.”

3 “SEC. 17. *REPORTORIAL REQUIREMENT.* – THE  
4 GRANTEE SHALL SUBMIT AN ANNUAL REPORT OF FINANCES  
5 AND OPERATIONS TO THE CONGRESS OF THE PHILIPPINES.”

6 SEC. 2. *Renewal/Extension of the Term of Franchise.* – This franchise  
7 shall be for a term of twenty-five (25) years from the date of effectivity of this  
8 Act. This franchise shall be deemed *ipso facto* revoked in the event that the  
9 grantee fails to operate continuously for two years.

10 SEC. 3. *Acceptance and Compliance.* – Acceptance of the amendment  
11 and extension/renewal of the franchise shall be given in writing within sixty  
12 (60) days from the effectivity of this Act.

13 SEC. 4. *Repealing Clause.* – All laws, decrees, orders, resolutions,  
14 instructions and rules and regulations or parts thereof which are inconsistent  
15 with this Act are hereby deemed repealed or modified accordingly.

16 SEC. 5. *Effectivity Clause.* – This Act shall take effect fifteen (15) days  
17 from the date of its publication, upon the initiative of the grantee, in at least  
18 two newspapers of general circulation in the Philippines.

Approved,