

**THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES**
Third Regular Session

6 NOV 15 P5:57

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 159

Submitted by the Committee on Public Services on 11 5 NOV 2006

Re : House Bill No. 5401

Recommending its approval with amendments.

Sponsor: *Senator Arroyo*

MR. PRESIDENT:

The Committee on Public Services, to which was referred House Bill No. 5401, introduced by Representatives Nepomuceno, Zubiri, Lagbas, Barinaga, Badelles, Apostol, Ipong, Asistio, Pablo, Taliño-Santos, Antonino, Malapitan and Serapio, entitled:

**“AN ACT
FURTHER AMENDING THE FRANCHISE OF ANGELES ELECTRIC CORPORATION GRANTED UNDER REPUBLIC ACT NO. 2341, AS AMENDED, TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITY OF ANGELES, PROVINCE OF PAMPANGA 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 6, 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.

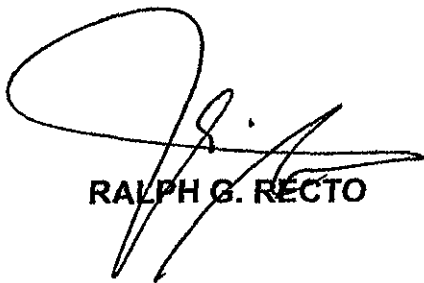
The grantee shall file the return with the city where its principal place of business is located and pay the taxes due thereon to the Commissioner of internal Revenue or his duly authorized representative in accordance with the NIRC and the return shall be subject to audit by the Bureau of Internal Revenue.

2. Renumber the sections accordingly.

Respectfully submitted:


JOKER P. ARROYO
Chairman

Members:

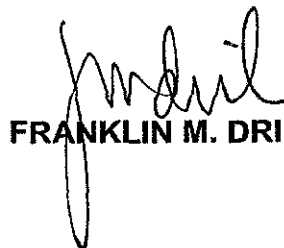

RALPH G. RECTO


MAR ROXAS

RICHARD J. GORDON


"COMPAÑERA" **PIA CAYETANO**


JUAN PONCE ENRILE


FRANKLIN M. DRILON


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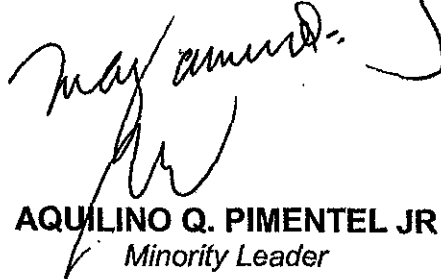

SERGIO OSMEÑA III

M.A. MADRIGAL

Ex-Officio Members:


JUAN M. FLAVIER
Pro-Tempore


FRANCIS N. PANGILINAN
Majority Leader


AQUILINO Q. PIMENTEL JR
Minority Leader

Hon. MANNY VILLAR
President
Senate of the Philippines
Pasay City

CONGRESS OF THE PHILIPPINES
THIRTEENTH CONGRESS
Second Regular Session

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HOUSE OF REPRESENTATIVES

H. No. 5401

BY REPRESENTATIVES NEPOMUCENO, ZUBIRI, LAGBAS, BARINAGA,
BADELLES, APOSTOL, IPONG, ASISTIO, PABLO, TALIÑO-SANTOS,
ANTONINO, MALAPITAN AND SERAPIO, PER COMMITTEE REPORT
No. 1650

AN ACT FURTHER AMENDING THE FRANCHISE OF ANGELES
ELECTRIC CORPORATION GRANTED UNDER REPUBLIC ACT
NO. 2341, AS AMENDED, TO CONSTRUCT, OPERATE
AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE
CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN
THE CITY OF ANGELES, PROVINCE OF PAMPANGA 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 Angeles Electric Corporation
2 under Republic Act No. 2341, 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 ANGELES ELECTRIC CORPORATION,
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 ANGELES,
8 PROVINCE OF PAMPANGA.

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

16 "SEC. 2. *MANNER OF OPERATIONS OF FACILITIES.* -- ALL
17 ELECTRIC DISTRIBUTION FACILITIES, LINES AND SYSTEMS FOR
18 ELECTRIC SERVICES OWNED, MAINTAINED, OPERATED OR
19 MANAGED BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNS,
20 SHALL BE OPERATED AND MAINTAINED AT ALL TIMES IN A
21 SUPERIOR MANNER, AND IT SHALL BE THE DUTY OF THE
22 GRANTEE, ITS SUCCESSORS OR ASSIGNS, WHENEVER REQUIRED
23 TO DO SO BY THE ENERGY REGULATORY COMMISSION,
24 HEREINAFTER REFERRED TO AS THE ERC, OR ITS LEGAL
25 SUCCESSOR, OR THE DEPARTMENT OF ENERGY, HEREINAFTER
26 REFERRED TO AS THE DOE, OR ITS LEGAL SUCCESSOR, OR ANY
27 OTHER GOVERNMENT AGENCY CONCERNED, TO MODIFY,
28 IMPROVE AND CHANGE SUCH FACILITIES OR SYSTEMS IN SUCH
29 MANNER AND TO SUCH EXTENT AS THE PROGRESS IN SCIENCE

1 AND IMPROVEMENTS IN THE ELECTRIC POWER SERVICES MAY
2 RENDER REASONABLE AND PROPER.

3 "WHENEVER PRACTICABLE AND FOR PURPOSES OF
4 MAINTAINING ORDER, SAFETY AND AESTHETICS ALONG THE
5 HIGHWAYS, ROADS, STREETS, ALLEYS OR RIGHT-OF-WAY, THE
6 GRANTEE MAY ALLOW THE USE OF FREE SPACES IN ITS POLES,
7 FACILITIES OR RIGHT-OF-WAY BY INTERESTED PARTIES UPON
8 REASONABLE COMPENSATION TO THE GRANTEE CONSIDERING
9 COSTS INCURRED TO ACCOMMODATE AND ADMINISTER THE USE
10 OF THE GRANTEE'S FACILITIES BY SUCH PARTIES. THE ERC
11 SHALL DECIDE IN CASE OF DISPUTE OR DISAGREEMENT
12 BETWEEN THE PARTIES."

13 "SEC. 3. *AUTHORITY OF THE ENERGY REGULATORY*
14 *COMMISSION.* - THE GRANTEE SHALL SECURE FROM THE ERC,
15 OR ANY OTHER GOVERNMENT AGENCY WHICH HAS
16 JURISDICTION OVER THE OPERATION OF THE HEREIN GRANTEE,
17 THE NECESSARY CERTIFICATE OF PUBLIC CONVENIENCE AND
18 NECESSITY AND OTHER APPROPRIATE PERMITS AND LICENSES
19 FOR THE CONSTRUCTION AND OPERATION OF ITS ELECTRIC
20 DISTRIBUTION SYSTEM."

21 "SEC. 4. *INGRESS AND EGRESS.* - FOR THE PURPOSE OF
22 ERECTING AND MAINTAINING POLES AND OTHER SUPPORTS FOR
23 SAID FACILITIES, WIRES OR OTHER CONDUCTORS OR FOR THE
24 PURPOSE OF LAYING AND MAINTAINING SAID FACILITIES,
25 WIRES, CABLES OR OTHER CONDUCTORS, IT SHALL BE LAWFUL
26 FOR THE GRANTEE, ITS SUCCESSORS AND ASSIGNS, WITH THE
27 PRIOR APPROVAL OF THE DEPARTMENT OF PUBLIC WORKS AND
28 HIGHWAYS (DPWH) OR THE LOCAL GOVERNMENT UNITS
29 (LGUS) CONCERNED, AS MAY BE APPROPRIATE, TO MAKE
30 EXCAVATIONS OR LAY CONDUITS IN ANY OF THE PUBLIC

1 PLACES, HIGHWAYS, STREETS, LANES, ALLEYS, AVENUES,
2 SIDEWALKS OR BRIDGES OF SAID PROVINCES AND/OR
3 MUNICIPALITIES: *PROVIDED, HOWEVER,* THAT ANY PUBLIC
4 PLACE, HIGHWAY, STREET, LANE, ALLEY, AVENUE, SIDEWALK
5 OR BRIDGE DISTURBED, ALTERED OR CHANGED BY REASON OF
6 THE ERECTION OF POLES OR OTHER SUPPORTS, OR THE LAYING
7 OF WIRES, OTHER CONDUCTORS OR CONDUITS SHALL BE
8 IMMEDIATELY REPAIRED AND PROPERLY RESTORED AT THE
9 EXPENSE OF THE GRANTEE, ITS SUCCESSORS AND ASSIGNS, IN
10 ACCORDANCE WITH THE STANDARDS SET BY THE DPWH AND
11 THE LGUS.”

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

24 “THE GRANTEE SHALL HAVE THE OBLIGATION TO PROVIDE
25 OPEN AND NONDISCRIMINATORY ACCESS TO ITS DISTRIBUTION
26 SYSTEM AND SERVICES FOR ANY END-USER WITHIN ITS
27 FRANCHISE AREA CONSISTENT WITH REPUBLIC ACT No. 9136.
28 THE GRANTEE SHALL NOT ENGAGE IN ANY ACTIVITY THAT
29 WILL CONSTITUTE AN ABUSE OF MARKET POWER SUCH AS, BUT
30 NOT LIMITED TO, UNFAIR TRADE PRACTICES, MONOPOLISTIC

1 SCHEMES AND ANY OTHER ACTIVITIES THAT WILL HINDER
2 COMPETITIVENESS OF BUSINESSES AND INDUSTRIES.”

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

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

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

22 “SEC. 8. *RIGHT OF THE GOVERNMENT.* – A SPECIAL RIGHT
23 IS HEREBY RESERVED TO THE PRESIDENT OF THE PHILIPPINES
24 IN TIMES OF WAR, REBELLION, PUBLIC PERIL, CALAMITY,
25 EMERGENCY, DISASTER OR DISTURBANCE OF PEACE AND ORDER
26 TO TAKE OVER AND OPERATE THE DISTRIBUTION SYSTEM OF
27 THE GRANTEE OR TO AUTHORIZE THE TEMPORARY USE AND
28 OPERATION THEREOF BY ANY AGENCY/DEPARTMENT OF THE
29 GOVERNMENT UPON DUE COMPENSATION TO THE GRANTEE FOR

1 THE USE OF THE SAID DISTRIBUTION SYSTEM DURING THE
2 PERIOD WHEN THEY SHALL BE SO OPERATED.”

3 “SEC. 9. *RIGHT OF EMINENT DOMAIN.* — SUBJECT TO THE
4 LIMITATIONS AND PROCEDURES PRESCRIBED BY LAW, THE
5 GRANTEE IS AUTHORIZED TO EXERCISE THE RIGHT OF EMINENT
6 DOMAIN INsofar AS IT MAY BE REASONABLY NECESSARY FOR
7 THE EFFICIENT MAINTENANCE AND OPERATION OF SERVICES.
8 THE GRANTEE IS AUTHORIZED TO INSTALL AND MAINTAIN ITS
9 POLES, WIRES AND OTHER FACILITIES OVER AND ACROSS
10 PUBLIC PROPERTY, INCLUDING STREETS, HIGHWAYS, FOREST
11 RESERVES AND OTHER SIMILAR PROPERTY OF THE
12 GOVERNMENT OF THE PHILIPPINES, ITS BRANCHES OR ANY OF
13 ITS INSTRUMENTALITIES. THE GRANTEE MAY ACQUIRE SUCH
14 PRIVATE PROPERTY AS IS ACTUALLY NECESSARY FOR THE
15 REALIZATION OF THE PURPOSES FOR WHICH THIS FRANCHISE IS
16 GRANTED: *PROVIDED,* THAT PROPER CONDEMNATION
17 PROCEEDINGS SHALL HAVE BEEN INSTITUTED AND JUST
18 COMPENSATION PAID.”

19 “SEC. 10. *WARRANTY IN FAVOR OF NATIONAL AND LOCAL*
20 *GOVERNMENTS.* — THE GRANTEE SHALL HOLD THE NATIONAL,
21 PROVINCIAL AND MUNICIPAL GOVERNMENTS OF THE
22 PHILIPPINES HARMLESS FROM ALL CLAIMS, ACCOUNTS,
23 DEMANDS OR ACTIONS ARISING OUT OF ACCIDENTS OR
24 INJURIES, WHETHER TO PROPERTY OR PERSONS, CAUSED BY
25 THE CONSTRUCTION, INSTALLATION, OPERATION AND
26 MAINTENANCE OF THE DISTRIBUTION SYSTEM OF THE
27 GRANTEE.”

28 “SEC. 11. *LIABILITY FOR DAMAGES.* — THE GRANTEE SHALL
29 BE LIABLE FOR ANY INJURY AND DAMAGE ARISING FROM OR
30 CAUSED BY ACCIDENT TO PERSONS AND PROPERTY BY REASON

1 OF ANY DEFECTIVE CONSTRUCTION UNDER THIS FRANCHISE OR
2 OF ANY NEGLECT OR OMISSION TO KEEP ITS POLES AND WIRES
3 IN A SAFE CONDITION.”

4 “SEC. 12. *SALE, LEASE, TRANSFER, USUFRUCT, ETC.* – THE
5 GRANTEE SHALL NOT LEASE, TRANSFER, GRANT THE USUFRUCT
6 OF NOR SELL THIS FRANCHISE OR THE RIGHTS AND PRIVILEGES
7 ACQUIRED THEREUNDER TO ANY PERSON, FIRM, COMPANY,
8 CORPORATION OR OTHER COMMERCIAL OR LEGAL ENTITY, NOR
9 MERGE WITH ANY OTHER CORPORATION OR ENTITY, NOR
10 SHALL THE CONTROLLING INTEREST OF THE GRANTEE BE
11 TRANSFERRED WHETHER IN WHOLE OR IN PART, AND WHETHER
12 SIMULTANEOUSLY OR CONTEMPORANEOUSLY, TO ANY SUCH
13 PERSON, FIRM, COMPANY, CORPORATION OR ENTITY WITHOUT
14 THE PRIOR APPROVAL OF THE CONGRESS OF THE PHILIPPINES.
15 ANY PERSON OR ENTITY TO WHICH THIS FRANCHISE IS SOLD,
16 TRANSFERRED OR ASSIGNED, SHALL BE SUBJECT TO THE SAME
17 CONDITIONS, TERMS, RESTRICTIONS AND LIMITATIONS OF THIS
18 ACT.”

19 “SEC. 13 *EQUALITY CLAUSE.* – IN THE EVENT THAT ANY
20 COMPETING INDIVIDUAL, PARTNERSHIP OR CORPORATION
21 SHALL RECEIVE A SIMILAR PERMIT OR FRANCHISE WITH TERMS
22 AND/OR PROVISIONS MORE FAVORABLE THAN THOSE HEREIN
23 GRANTED OR WHICH TEND TO PLACE THE HEREIN GRANTEE AT
24 ANY DISADVANTAGE, SUCH TERMS AND/OR PROVISIONS SHALL
25 BE DEEMED PART HEREOF AND SHALL OPERATE EQUALLY IN
26 FAVOR OF THE HEREIN GRANTEE: *PROVIDED*, THAT ANY TERMS
27 AND/OR PROVISIONS HEREIN GRANTED WHICH ARE NOT
28 CONTAINED IN OTHER FRANCHISE THAT MAY HEREAFTER BE
29 GRANTED SHALL LIKEWISE BE ENJOYED BY THE FUTURE
30 GRANTEES: *PROVIDED, HOWEVER*, THAT THE FOREGOING

1 SHALL NEITHER APPLY TO NOR AFFECT THE PROVISIONS
2 CONCERNING TERRITORY COVERED BY THE FRANCHISE AND
3 THE LIFE SPAN OF THE FRANCHISE.”

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

9 “SEC. 15. *APPLICABILITY CLAUSE.* – THE GRANTEE SHALL
10 COMPLY WITH AND BE SUBJECT TO THE PROVISIONS OF
11 COMMONWEALTH ACT NO. 146, AS AMENDED, OTHERWISE
12 KNOWN AS THE “PUBLIC SERVICES ACT” AND REPUBLIC ACT
13 NO. 9136, OTHERWISE KNOWN AS THE ‘ELECTRIC POWER
14 INDUSTRY REFORM ACT OF 2001’.”

15 “SEC. 16. *REPEALABILITY AND NONEXCLUSIVITY CLAUSE.* –
16 THIS FRANCHISE SHALL BE SUBJECT TO AMENDMENT,
17 ALTERATION OR REPEAL BY THE CONGRESS OF THE
18 PHILIPPINES WHEN THE PUBLIC INTEREST SO REQUIRES AND
19 SHALL NOT BE INTERPRETED AS AN EXCLUSIVE GRANT OF THE
20 PRIVILEGES HEREIN PROVIDED FOR.”

21 “SEC. 17. *REPORTORIAL REQUIREMENT.* – THE GRANTEE
22 SHALL SUBMIT AN ANNUAL REPORT OF FINANCES AND
23 OPERATIONS TO THE CONGRESS OF THE PHILIPPINES.”

24 SEC. 2. *Renewal/Extension of the Term of Franchise.* – The term of the
25 franchise granted under Republic Act No. 2341, as amended, is hereby
26 extended/renewed for a period of twenty-five (25) years from the date of
27 effectivity of this Act. This franchise shall be deemed *ipso facto* revoked in
28 the event that the grantee fails to operate continuously for two years.

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

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

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

Approved,