

9 APR 28 1954

FOURTEENTH CONGRESS OF THE)  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )

RECEIVED BY: 

SENATE

COMMITTEE REPORT NO. 304

Submitted <sup>by</sup> APR 28 2009 the Committee on Public Services on

RE : **H. B. No. 3040**

Recommending the approval of **H. B. No. 3040** with amendments.

Sponsor : **Senator Revilla, Jr.**

**MR. PRESIDENT:**

The Senate Committee on Public Services to which was referred H. B. No. 3040, introduced by Representatives Mandanas and Biron, *entitled:*

**"AN ACT  
GRANTING THE CONVERGENCE INFORMATION AND  
COMMUNICATIONS TECHNOLOGY SOLUTIONS, 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 it back to the Senate with the recommendation that the **H. B. No. 3040** be approved with amendments, to wit:

1. On page 1, Section 1 with the title, "Nature and Scope of Franchise", line 3, delete the word "Convergence" and in lieu thereof insert the word "**CONVERGE**";
2. Lastly on the title, change the word "Convergence" to the word "**CONVERGE**".

with Senator Revilla, Jr. as sponsor thereof.

Respectfully submitted:

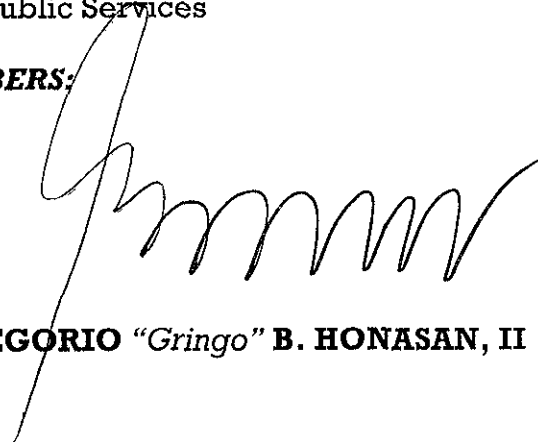


**RAMON "Pong" REVILLA, JR.**  
Chairman  
Committee on Public Services

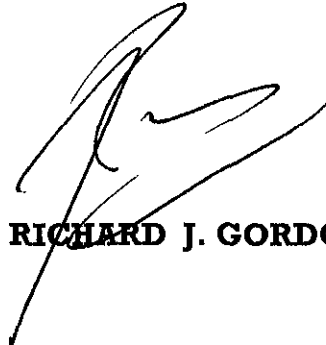
**MEMBERS:**



**EDGARDO J. ANGARA**



**GREGORIO "Gringo" B. HONASAN, II**



**RICHARD J. GORDON**



**PANFILO "Ping" M. LACSON, SR.**


**MAR ROXAS**



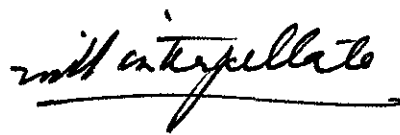
**FRANCIS "Chiz" G. ESCUDERO**

**JOKER P. ARROYO**

**ALAN PETER "Compañero" S. CAYETANO**

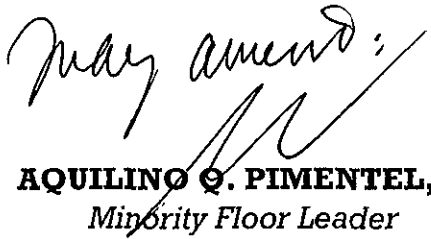


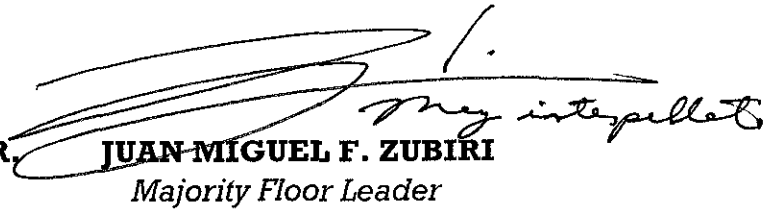
**FRANCIS M. PANGILINAN**



**EX-OFFICIO MEMBERS:**

  
**JINGGOY P. EJERCITO ESTRADA**  
*President Pro-Tempore*

*May amend:*  
  
**AQUILINO Q. PIMENTEL, JR.**  
*Minority Floor Leader*

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

**JUAN PONCE ENRILE**  
*Senate President*  
*Pasay City*



HOUSE OF REPRESENTATIVES

H. No. 3040

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BY REPRESENTATIVES MANDANAS AND BIRON

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AN ACT GRANTING THE CONVERGENCE INFORMATION AND COMMUNICATIONS TECHNOLOGY SOLUTIONS, 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  
2 provisions of the Constitution and applicable laws, rules and regulations, there  
3 is hereby granted to Convergence Information and Communications  
4 Technology Solutions, Inc., hereunder referred to as the grantee, its successors  
5 or assigns, a franchise to construct, install, establish, operate and maintain for  
6 commercial purposes and in the public interest, throughout the Philippines and  
7 between the Philippines and other countries and territories, wire and/or  
8 wireless telecommunications systems including, but not limited to, mobile,  
9 cellular, paging, fiber optics, multichannel multipoint distribution system  
10 (MMDS), local multipoint distribution system (LMDS), satellite transmit and  
11 *receive systems, switches and their value-added services such as, but not*  
12 *limited to, transmission of voice, data, facsimile, control signs, audio and*  
13 *video, information services bureau and all other telecommunications systems*

1 technologies as are at present available or will be made available through  
2 technological advances or innovations in the future; and/or construct, acquire,  
3 lease and operate or manage transmitting and receiving stations, lines, cables  
4 or systems as in or are convenient or essential to efficiently carry out the  
5 purpose of this franchise.

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

14       SEC. 3. *Authority of the National Telecommunications Commission.* –  
15 The grantee shall secure from the National Telecommunications Commission  
16 (NTC), hereinafter referred to as the Commission, a certificate of public  
17 convenience and necessity or the appropriate permits and licenses for the  
18 construction, installation and operation of its telecommunications  
19 systems/facilities. In issuing the certificate, the Commission shall have the  
20 power to impose such conditions relative to the construction, operation,  
21 maintenance or service level of the telecommunications system. The  
22 Commission shall have the authority to regulate the construction and operation  
23 of its telecommunications systems. The grantee shall not use any frequency in  
24 the radio spectrum without having been authorized by the Commission. Such  
25 certificate shall state the areas covered and date the grantee shall commence  
26 the service. The Commission, however, shall not unreasonably withhold or  
27 delay the grant of any such authority, permits or licenses.

28       SEC. 4. *Ingress and Egress.* – For the purpose of erecting and  
29 maintaining poles or other supports for said wires or other conductors for the

1 purpose of laying and maintaining underground wires, cables or other  
2 conductors, it shall be lawful for the grantee, its successors or assigns, with the  
3 prior approval of the Department of Public Works and Highways (DPWH), to  
4 make excavations or lay conduits in any of the public places, highways, streets,  
5 lanes, alleys, avenues, sidewalks or bridges of said provinces, cities and/or  
6 municipalities: *Provided, however,* That a public place, highway, street, lane,  
7 alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of  
8 erection of poles or other supports or the underground laying of wires, other  
9 conductors or conduits, shall be repaired and replaced in workmanlike manner  
10 by said grantee, its successors or assigns, in accordance with the standards set  
11 by the DPWH. Should the grantee, its successors or assigns, after the ten (10)  
12 days notice from the said authority, fail, refuse or neglect to repair or replace  
13 any part of public place, road, highway, street, lane, alley, avenue, sidewalk or  
14 bridge altered, changed or disturbed by the said grantee, its successors or  
15 assigns, then the DPWH shall have the right to have the same repaired and  
16 placed in good order and condition at double expense to be charged against the  
17 grantee, its successors or assigns.

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

22       The grantee shall provide basic or enhanced telephone service in any  
23 municipality in the Philippines where it has an approved certificate of public  
24 convenience and necessity for the establishment, operation and maintenance of  
25 basic and/or enhanced local exchange service, without discrimination to any  
26 applicant therefore, in the order of the date of their applications, up to the limit  
27 of the capacity of its local telephone exchange, and should the demand for the  
28 telephone service at any time increase beyond the capacity thereof, the grantee  
29 shall increase the same to meet such demand: *Provided,* That in case the total

1 demand to be satisfied by the expansion is less than the smallest viable local  
2 exchange available in the market as determined by the Commission, the  
3 grantee shall not be obliged to furnish such service unless the applicant for  
4 telephone service defrays the actual expenses for the installation of the  
5 telecommunications apparatus necessary for such services and, in such case,  
6 the Commission may extend the time within which the grantee shall furnish  
7 such service.

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

13 *SEC. 6. Rate for Services.* – The charges and rates for  
14 telecommunications services of the grantee, except the rates and charges on  
15 those that may hereafter be declared or considered as nonregulated services,  
16 whether flat rates or measured rates or variation thereof, shall be subject to the  
17 approval of the Commission or its legal successor. The rates to be charged by  
18 the grantee shall be unbundled, separable and distinct among the services  
19 offered and shall be determined in such a manner that regulated services do not  
20 subsidize the unregulated ones.

21 *SEC. 7. Right of Government.* – A special right is hereby granted to the  
22 President of the Philippines, in times of war, rebellion, public peril, calamity,  
23 emergency, disaster or disturbance of peace and order, to temporarily take over  
24 and operate the stations, transmitters, facilities or equipment of the grantee, to  
25 temporarily suspend the operation of any station, transmitter, facility or  
26 equipment in the interest of public safety, security and public welfare, or to  
27 authorize the temporary use and operation thereof by any agency of the  
28 government, upon due compensation to the grantee, for the use of said stations,

1 transmitters, facilities or equipment during the period when they shall be so  
2 operated.

3 The radio spectrum is a finite resource that is part of the national  
4 patrimony and the use thereof is a privilege conferred upon the grantee by the  
5 State and may be withdrawn anytime after due process.

6 SEC. 8. *Term of Franchise.* – This franchise shall be for a term of  
7 twenty-five (25) years from the date of effectivity of this Act, unless sooner  
8 revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the  
9 event the grantee fails to comply with any of the following conditions:

10 (a) Commence operations within three (3) years from the approval of  
11 its operating permit by the NTC;

12 (b) Operate continuously for two (2) years; and

13 (c) Commence operations within five (5) years from the effectivity of  
14 this Act.

15 SEC. 9. *Acceptance and Compliance.* – Acceptance of this franchise  
16 shall be given in writing within sixty (60) days from the effectivity of this Act.  
17 Upon giving such acceptance, the grantee shall exercise the privileges granted  
18 under this Act. Nonacceptance shall render the franchise void.

19 SEC. 10. *Bond.* – The grantee shall file a bond issued in favor of the  
20 NTC, which shall determine the amount, to guarantee the compliance with and  
21 fulfillment of the conditions under which this franchise is granted. If, after five  
22 (5) years from the date of the approval of its permit by the Commission, the  
23 grantee shall have fulfilled the same, the bond shall be cancelled by the  
24 Commission. Otherwise, the bond shall be forfeited in favor of the government  
25 and the franchise *ipso facto* revoked.

26 SEC. 11. *Right of Interconnection.* – The grantee is hereby authorized  
27 to connect or demand connection of its telecommunications systems to any  
28 other telecommunications systems installed, operated and maintained by any  
29 other duly authorized person or entity in the Philippines for the purpose of



1 providing extended and improved telecommunications services to the public  
2 under such terms and conditions mutually agreed upon by the parties  
3 concerned, and the same shall be subject to the review and modification of the  
4 Commission.

5       SEC. 12. *Gross Receipts.* – The grantee, its successors or assigns, shall  
6 keep a separate account of the gross receipts of the business transacted by it  
7 and shall furnish the Commission on Audit (COA) and the National Treasury a  
8 copy of such account not later than the thirty-first (31<sup>st</sup>) day of January of each  
9 year for the preceding twelve (12) months.

10       SEC. 13. *Books and Accounts.* – The books and accounts of the  
11 grantee, its successors or assigns, shall always be open to the inspection of the  
12 COA or its authorized representatives and it shall be the duty of the grantee to  
13 submit to the COA two (2) copies of the quarterly reports on the gross receipts,  
14 the net profits and the general condition of the business.

15       SEC. 14. *Warranty in Favor of National and Local Governments.* –  
16 The grantee shall hold the national, provincial, city and municipal governments  
17 of the Philippines harmless from all claims, accounts, demands or actions  
18 arising out of accidents or injuries, whether to property or to persons, caused  
19 by the construction or operation of the stations, transmitters, facilities and  
20 equipment of the grantee.

21       SEC. 15. *Nontransferability of Franchise.* – The grantee shall not lease,  
22 transfer, grant the usufruct of, sell nor assign this franchise or the rights and  
23 privileges acquired thereunder to any person, firm, company, corporation or  
24 other commercial or legal entity, nor merge with any other corporation or  
25 entity, nor shall the controlling interest of the grantee be transferred, whether  
26 as a whole or in parts and whether simultaneously or contemporaneously, to  
27 any such person, firm, company, corporation or entity without the prior  
28 approval of the Congress of the Philippines. Any person or entity to which this

1 franchise is validly sold, transferred or assigned shall be subject to the same  
2 conditions, terms, restrictions and limitations of this Act.

3 SEC. 16. *Dispersal of Ownership.* – In accordance with the  
4 constitutional provision to encourage public participation in public utilities, the  
5 grantee shall offer at least thirty *per centum* (30%) of its outstanding capital  
6 stock or a higher percentage that may hereafter be provided by law in any  
7 securities exchange in the Philippines within five (5) years from the  
8 commencement of its operations. Noncompliance therewith shall render the  
9 franchise *ipso facto* revoked.

10 SEC. 17. *Equality Clause.* – Any advantage, favor, privilege, exemption  
11 or immunity granted under existing franchises for telecommunications system,  
12 or which may hereafter be granted, shall *ipso facto* become part of this  
13 franchise and shall be accorded immediately and unconditionally to the herein  
14 grantee: *Provided, however,* That the foregoing shall neither apply to nor affect  
15 provisions of telecommunications franchises concerning territory covered by  
16 the franchise, the life span of the franchise or the type of service authorized by  
17 the franchise.

18 SEC. 18. *Reportorial Requirement.* – The grantee shall submit an  
19 annual report to the Congress of the Philippines on its compliance with the  
20 terms and conditions of the franchise and on its operations within sixty (60)  
21 days from the end of every year.

22 SEC. 19. *Separability Clause.* – If any of the sections or provisions of  
23 this Act is held invalid, all the other provisions not affected thereby shall  
24 remain valid.

25 SEC. 20. *Repealing and Nonexclusivity Clause.* – This franchise shall  
26 be subject to amendment, alteration or repeal by the Congress of the  
27 Philippines when the public interest so requires and shall not be interpreted as  
28 an exclusive grant of the privileges herein provided for.

1           SEC. 21. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
2 days from the date of its publication, upon the initiative of the grantee, in at  
3 least two (2) newspapers of general circulation in the Philippines.

Approved,

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