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

RECEIVED BY: 

**SENATE**

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**COMMITTEE REPORT NO. 305**

Submitted by the Committee on Public Services on  
APR 28 2009

RE : **H. B. No. 5146**

Recommending the approval of **H. B. No. 5146** with amendments.

Sponsor : **Senator Revilla, Jr.**

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**MR. PRESIDENT:**

The Senate Committee on Public Services to which was referred H. B. No. 5146, introduced by Representatives Defensor and Biron, *entitled:*


**"AN ACT  
GRANTING THE PANAY TELEPHONE CORPORATION  
(PANTELCO III) A FRANCHISE TO CONSTRUCT, INSTALL,  
ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE  
NETWORK IN THE MUNICIPALITIES OF CABATUAN, JANIUAY  
AND BADIANGAN, ALL IN THE PROVINCE OF ILOILO."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the **H. B. No. 5146** be approved with amendments, to wit:

1. On page 1, line 8, Section 1 with the title, "Nature and Scope of Franchise", after the word "Janiuay" and before the conjunction "and" insert the words, "**CALINOG, LAMBUNAO, MINA**";
2. Lastly on the title, after the word "Janiuay" and before the conjunction "and" insert the words, "**CALINOG, LAMBUNAO, MINA**".

with Senator Revilla, Jr. as sponsor thereof.

Respectfully submitted:

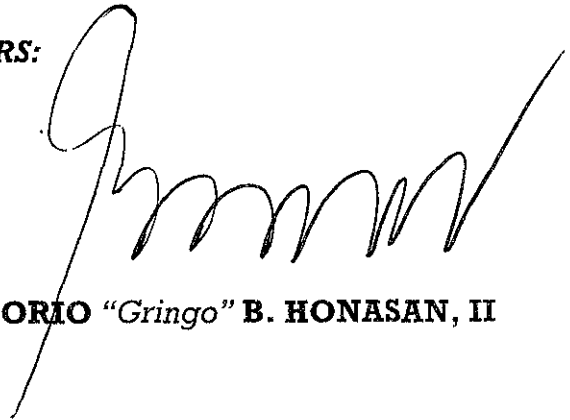


**RAMON "Bong" REVILLA, JR.**  
Chairman  
Committee on Public Services

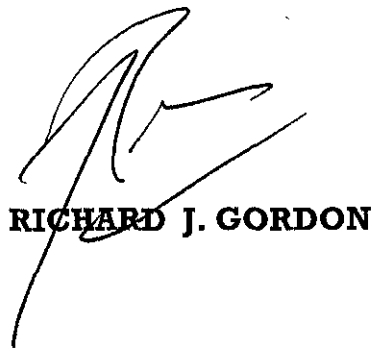
**MEMBERS:**



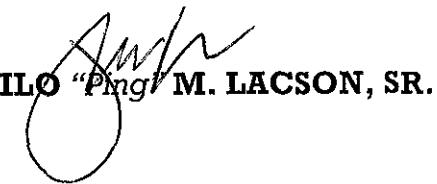
**EDGARDO J. ANGARA**



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



**RICHARD J. GORDON**



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

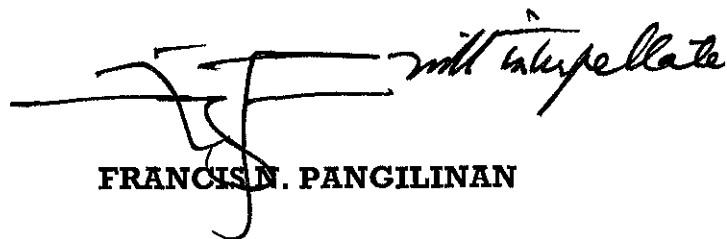
**MAR ROXAS**



**FRANCIS "Chiz" G. ESCUDERO**

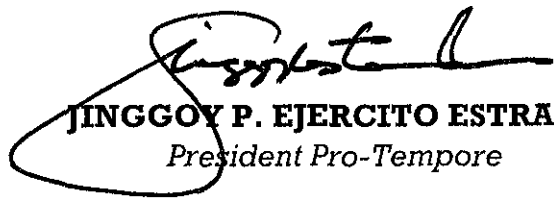
**JOKER P. ARROYO**

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

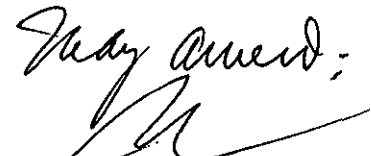


**FRANCIS N. PANGILINAN**

**EX- OFFICIO MEMBERS:**



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



**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. 5146

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BY REPRESENTATIVES DEFENSOR (A.) AND BIRON, PER COMMITTEE REPORT  
No. 1285

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AN ACT GRANTING THE PANAY TELEPHONE CORPORATION  
(PANTELCO III) A FRANCHISE TO CONSTRUCT, INSTALL,  
ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE  
NETWORK IN THE MUNICIPALITIES OF CABATUAN, JANIUAY  
AND BADIANGAN, ALL IN THE PROVINCE OF ILOILO

*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 the Panay Telephone Corporation (PANTELCO III),  
4 hereunder referred to as the grantee, its successors or assigns, a franchise to  
5 construct, install, establish, operate and maintain for commercial purposes and  
6 in the public interest, local exchange network, including public calling stations  
7 or pay telephone stations or wireless local loop and their value-added services  
8 in the municipalities of Cabatuan, Janiuay and Badiangan, all in the Province  
9 of Iloilo, and for such purpose provide basic telephone service capable of  
10 accessing local, national, international and other networks.

1           SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations  
2 or facilities of the grantee shall be constructed and operated in a manner that  
3 will, at most, result only in the minimum interference on the wavelengths or  
4 frequencies of existing stations or other stations which may be established by  
5 law, without in any way diminishing its own right to use its selected  
6 wavelengths or frequencies and the quality of transmission or reception thereon  
7 that should maximize rendition of the grantee’s services and/or the availability  
8 thereof. In no way shall the operations of the grantee, nor the radiated power  
9 of its stations or facilities, exceed that required to cover the area where it is  
10 allowed to operate.

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

25           SEC. 4. *Responsibility to the Public.* – The grantee shall conform to the  
26 ethics of honest enterprise and not use its stations/facilities for obscene or  
27 indecent transmission or for dissemination of deliberately false information or  
28 willful misrepresentation, or assist in subversive or treasonable acts.

1           The grantee shall provide basic or enhanced telephone service within  
2 the municipalities of Cabatuan, Janiuay and Badiangan, all in the Province of  
3 Iloilo, where it has an approved certificate of public convenience and necessity  
4 for the establishment, operation and maintenance of a local exchange service,  
5 without discrimination to any applicant therefor, in the order of the date of  
6 their applications, up to the limit of the capacity of its local telephone  
7 exchange, and should the demand for the telephone service at any time  
8 increase beyond the capacity thereof, the grantee shall increase the same to  
9 meet such demand: *Provided*, That in case the total demand to be satisfied by  
10 the expansion is less than the smallest viable local exchange available in the  
11 market as determined by the Commission, the grantee shall not be obliged to  
12 furnish such service unless the applicant for telephone service defrays the  
13 actual expenses for the installation of the telecommunications apparatus  
14 necessary for such services and in such case, the Commission may extend the  
15 time within which the grant shall furnish such service.

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

21           SEC. 5. *Rates for Services.* -- The charges and rates for  
22 telecommunications services of the grantee, except the rates and charges on  
23 those that may hereafter be declared or considered as nonregulated services,  
24 whether flat rates or measured rates or variation thereof, shall be subject to the  
25 approval of the Commission or its legal successor. The rates to be charged by  
26 the grantee shall be unbundled, separable and distinct among the services  
27 offered and shall be determined in such a manner that regulated services do not  
28 subsidize the unregulated ones.

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

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

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

18           (a) Commence operation within three (3) years from the approval of its  
19 operating permit or provisional authority by the NTC;

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

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

23           SEC. 8. *Acceptance and Compliance.* – Acceptance of this franchise  
24 shall be given in writing within sixty (60) days from the effectivity of this Act.  
25 Upon giving such acceptance, the grantee shall exercise the privileges granted  
26 under this Act. Nonacceptance shall render the franchise void.

27           SEC. 9. *Bond.* – The grantee shall file a bond issued in favor of the  
28 NTC, which shall determine the amount, to guarantee the compliance with and

1 fulfillment of the conditions under which this franchise is granted. If, after five  
2 (5) years from the date of the approval of its permit by the Commission, the  
3 grantee shall have fulfilled the same, the bond shall be cancelled by the  
4 Commission. Otherwise, the bond shall be forfeited in favor of the  
5 government and the franchise *ipso facto* revoked.

6 SEC. 10. *Right of Interconnection.* – The grantee is hereby authorized  
7 to connect or demand connection of its telecommunications systems to any  
8 other telecommunications systems installed, operated and maintained by any  
9 other duly authorized person or entity in the Philippines for the purpose of  
10 providing extended and improved telecommunications services to the public,  
11 under such terms and conditions mutually agreed upon by the parties  
12 concerned and the same shall be subject to the review and modification of the  
13 Commission.

14 SEC. 11. *Gross Receipts.* – The grantee, its successors or assigns, shall  
15 keep a separate account of the gross receipts of the business transacted by it  
16 and shall furnish the Commission on Audit (COA) and the National Treasury a  
17 copy of such account not later than the thirty-first (31<sup>st</sup>) day of January of each  
18 year for the preceding twelve (12) months.

19 SEC. 12. *Books and Accounts.* – The books and accounts of the  
20 grantee, its successors or assigns, shall always be open to the inspection of the  
21 Commissioner on Audit or his authorized representatives and it shall be the  
22 duty of the grantee to submit to the COA two (2) copies of the quarterly reports  
23 on the gross receipts, the net profits and the general condition of the business.

24 SEC. 13. *Warranty in Favor of the National and Local Governments.* –  
25 The grantee shall hold the national, provincial, city and municipal governments  
26 of the Philippines free from all claims, accounts, demands or actions arising  
27 out of accidents or injuries, whether to property or to persons, caused by the



1 construction or operation of the stations, transmitters, facilities and equipment  
2 of the grantee.

3       SEC. 14. *Nontransferability of Franchise.* – The grantee shall not lease,  
4 transfer, grant the usufruct of, sell nor assign this franchise or the rights and  
5 privileges acquired thereunder to any person, firm, company, corporation or  
6 other commercial or legal entity, nor merge with any other corporation or  
7 entity, nor shall the controlling interest of the grantee be transferred, whether  
8 as a whole or in parts and whether simultaneously or contemporaneously, to  
9 any such person, firm, company, corporation or entity without the prior  
10 approval of the Congress of the Philippines. Any person or entity to which this  
11 franchise is sold, transferred or assigned, shall be subject to the same  
12 conditions, terms, restrictions and limitations of this Act.

13       SEC. 15. *Dispersal of Ownership.* – In accordance with the  
14 constitutional provision to encourage public participation in public utilities, the  
15 grantee shall offer at least thirty *per centum* (30%) of its outstanding capital  
16 stock or a higher percentage that may hereafter be provided by law in any  
17 securities exchange in the Philippines within ten (10) years from the  
18 commencement of its operations or from the date of effectivity of this Act,  
19 whichever is later. Noncompliance therewith shall render the franchise *ipso*  
20 *facto* revoked.

21       SEC. 16. *Reportorial Requirement.* – The grantee shall submit an  
22 annual report to the Congress of the Philippines on its compliance with the  
23 terms and conditions of the franchise and on its operations within sixty (60)  
24 days from the end of every year.

25       SEC. 17. *Equality Clause.* – Any advantage, favor, privilege,  
26 exemption or immunity granted under existing franchises, or may hereafter be  
27 granted, shall *ipso facto* become part of previously granted  
28 telecommunications franchises and shall be accorded immediately and

1 unconditionally to the grantees of such franchises: *Provided, however,* That the  
2 foregoing shall neither apply to nor affect provisions of telecommunications  
3 franchises concerning territory covered by the franchise, the life span of the  
4 franchise or the type of service authorized by the franchise.

5       SEC. 18. *Separability Clause.* – If any of the sections or provisions of  
6 this Act is held invalid, all other provisions not affected thereby shall remain  
7 valid.

8       SEC. 19. *Repealability and Nonexclusivity Clause.* – This franchise  
9 shall be subject to amendment, alteration or repeal by the Congress of the  
10 Philippines when the public interest so requires and shall not be interpreted as  
11 an exclusive grant of the privileges herein provided for.

12       SEC. 20. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
13 days after the date of its publication, upon the initiative of the grantee, in at  
14 least two (2) newspapers of national circulation in the Philippines.

Approved,

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