

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

12 MAY 30 2012

SENATE

COMMITTEE REPORT NO. 160

Submitted by the Committee on Public Services on MAY 30 2012

RE : H. B. No. 5613

Recommending its approval without amendment.

Sponsor : Senator Bong Revilla, Jr.

MR. PRESIDENT:

The Senate Committee on Public Services to which was referred H. B. No. 5613, introduced by Representatives Madrona and Teodoro, *entitled:*

**"AN ACT  
AMENDING THE FRANCHISE OF WI-TRIBE TELECOMS,  
INC., (FORMERLY LIBERTY BROADCASTING NETWORK,  
INCORPORATED) GRANTED UNDER REPUBLIC ACT NO.  
1553 AS AMENDED BY REPUBLIC ACT 4154, AND  
RENEWING/EXTENDING THE TERM THEREOF FOR  
ANOTHER TWENTY-FIVE (25) YEARS FROM THE DATE OF  
THE EFFECTIVITY OF THIS ACT."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H. B. No. 5613 be approved without amendment.

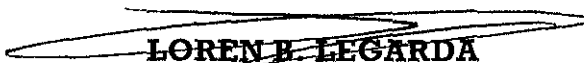
Respectfully submitted:


  
**RAMON BONG REVILLA, JR.**  
Chairman  
Committee on Public Services

**RALPH G. RECTO**  
*Vice Chairperson*  
Committee on Public Services

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**LOREN B. LEGARDA**

  
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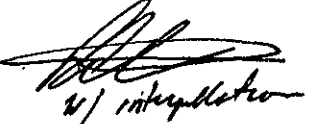
  
**GREGORIO B. HONASAN, II**

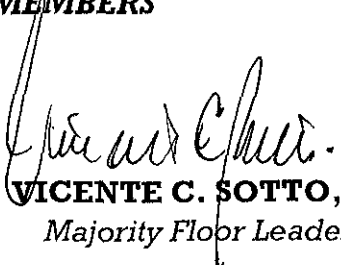
**SERGIO OSMEÑA, III**

**PIA S. CAYETANO**

  
**JOKER O. ARROYO**

**EX-OFFICIO MEMBERS**

  
**ALAN PETER S. CAYETANO**  
*Minority Floor Leader*

  
**VICENTE C. SOTTO, III**  
*Majority Floor Leader*

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

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



**HOUSE OF REPRESENTATIVES**

**H. No. 5613**

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BY REPRESENTATIVES MADRONA AND TEODORO, PER COMMITTEE  
REPORT NO. 1589

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AN ACT AMENDING THE FRANCHISE OF WI-TRIBE TELECOMS, INC., (FORMERLY LIBERTY BROADCASTING NETWORK, INCORPORATED) GRANTED UNDER REPUBLIC ACT NO. 1553, AS AMENDED BY REPUBLIC ACT NO. 4154, AND RENEWING/EXTENDING THE TERM THEREOF FOR ANOTHER TWENTY-FIVE (25) YEARS FROM THE DATE OF THE EFFECTIVITY OF THIS ACT

*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 Wi-Tribe Telecoms, Inc. (formerly Liberty Broadcasting  
4 Network, Incorporated), hereunder referred to as the grantee, its successors or  
5 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, multi-channel multi-point distribution system  
10 (MMDS), local multi-point distribution system (LMDS), satellite transmit and

1 receive systems, switches, and their value-added services such as, but not  
2 limited to, transmission of voice, data, facsimile, control signs, audio and  
3 video, information services bureau and all other telecommunications systems  
4 technologies as are at present available or will be made available through  
5 technological advances or innovations in the future; and/or construct, acquire,  
6 lease and operate or manage transmitting and receiving stations, lines, cables  
7 or systems as in or are convenient or essential to efficiently carry out the  
8 purpose of this franchise.

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

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

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

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

26           The grantee shall provide basic or enhanced telephone service in any  
27 city and/or municipality in the Philippines where it has an approved Certificate  
28 of Public Convenience and Necessity for the establishment, operation and  
29 maintenance of a local exchange service, without discrimination to any

1 applicant therefor, in the order of the date of their applications, up to the limit  
2 of the capacity of its local telephone exchange, and should the demand for the  
3 telephone service at any time increase beyond the capacity thereof, the grantee  
4 shall increase the same to meet such demand: *Provided*, That in case the total  
5 demand to be satisfied by the expansion is less than the smallest viable local  
6 exchange available in the market as determined by the Commission, the  
7 grantee shall not be obliged to furnish such service unless the applicant for  
8 telephone service defrays the actual expenses for the installation of the  
9 telecommunications apparatus necessary for such services and in such case, the  
10 Commission may extend the time within which the grantee shall furnish such  
11 service.

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

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

25 *SEC. 7. Right of Government.* — A special right is hereby reserved to  
26 the President of the Philippines in times of war, rebellion, public peril,  
27 calamity, emergency, disaster or disturbance of peace and order, to temporarily  
28 take over and operate the stations, transmitters, facilities or equipment of the  
29 grantee, to temporarily suspend the operation of any station, transmitter,

1 facility or equipment in the interest of public safety, security and public  
2 welfare, or to authorize the temporary use and operation thereof by any agency  
3 of the government, upon due compensation to the grantee for the use of said  
4 stations, transmitters, facilities or equipment during the period when they shall  
5 be so operated.

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

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

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

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

24 SEC. 11. *Right of Interconnection.* – The grantee is hereby authorized  
25 to connect or demand connection of its telecommunications systems to any  
26 other telecommunications systems installed, operated and maintained by any  
27 other duly authorized person or entity in the Philippines for the purpose of  
28 providing extended and improved telecommunications services to the public,  
29 under such terms and conditions mutually agreed upon by the parties

1 concerned and the same shall be subject to the review and modification of the  
2 Commission.

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

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

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

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



1 (a) Any transfer or issuance of shares of stock in the implementation of  
2 the requirement for the dispersal of the grantee's ownership pursuant to  
3 Section 16 of this Act;

4 (b) Any transfer or sale of shares of stock to a foreign investor or  
5 investors;

6 (c) Any issuance of shares to any foreign or local investors pursuant to  
7 or in connection with any increase in the grantee's authorized capital stock  
8 which shall result in the dilution of the stockholdings of the grantee's then  
9 existing stockholders; and

10 (d) Any combination thereof where such transfer, sale or issuance is  
11 effected in order to enable the grantee to raise the necessary capital or  
12 financing for the provision of any of the services authorized by this Act and/or  
13 to carry out any of the purposes for which the grantee has been incorporated or  
14 organized: *Provided, further,* That any such transfer, sale or issuance is in  
15 accordance with any applicable constitutional limitations. Any person or entity  
16 to which this franchise is validly sold, transferred or assigned shall be subject  
17 to all the same conditions, terms, restrictions and limitations of this Act.

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

25 SEC. 17. *Reportorial Requirement.* – The grantee shall submit an  
26 annual report to the Congress of the Philippines on its compliance with the  
27 terms and conditions of the franchise and on its operations within sixty (60)  
28 days from the end of every year.

1           SEC. 18. *Equality Clause.* – Any advantage, favor, privilege,  
2 exemption or immunity granted under existing franchise, or which may  
3 hereafter be granted, shall *ipso facto* become part of this franchise and shall be  
4 accorded immediately and unconditionally to the herein grantee: *Provided,*  
5 *however,* That the foregoing shall neither apply to nor affect provisions of  
6 telecommunications franchises concerning territory covered by the franchise,  
7 the life span of the franchise or the type of service authorized by the franchise.

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

11           SEC. 20. *Repealability and Nonexclusivity Clause.* – This franchise  
12 shall be subject to amendment, alteration or repeal by the Congress of the  
13 Philippines when the public interest so requires and shall not be interpreted as  
14 an exclusive grant of the privileges herein provided for.

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

Approved,

O