



## HOUSE OF REPRESENTATIVES

H. No. 3187

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BY REPRESENTATIVES SEMA AND TEODORO

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AN ACT GRANTING COTABATO LIGHT AND POWER COMPANY,  
A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,  
OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR  
THE CONVEYANCE OF ELECTRIC POWER TO THE  
END-USERS IN THE CITY OF COTABATO AND PORTIONS OF  
THE MUNICIPALITIES OF DATU ODIN SINSUAT AND SULTAN  
KUDARAT, BOTH IN THE PROVINCE OF MAGUINDANAO

*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 1987 Philippine Constitution and applicable laws, rules and  
3 regulations, there is hereby granted to Cotabato Light and Power Company,  
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, a distribution system for the conveyance of electric  
7 power to the end-users in the City of Cotabato and portions of the  
8 municipalities of Datu Odin Sinsuat and Sultan Kudarat, both in the Province  
9 of Maguindanao.

1           SEC. 2. *Manner of Operation of Facilities.* – All electric distribution  
2 facilities, lines and systems for electric services owned, maintained, operated  
3 or managed by the grantee, its successors or assigns, shall be operated and  
4 maintained at all times in a superior manner, and it shall be the duty of the  
5 grantee, its successors or assigns, whenever required to do so by the Energy  
6 Regulatory Commission, hereinafter referred to as the ERC, or its legal  
7 successor, or the Department of Energy, hereinafter referred to as the DOE, or  
8 its legal successor, or any other government agency concerned, to modify,  
9 improve and change such facilities or systems in such a manner and to such  
10 extent as the progress in science and improvements in the electric power  
11 services may render reasonable and proper.

12           Whenever practicable and for purposes of maintaining order, safety and  
13 aesthetics along highways, roads, streets, alleys or right-of-way, the grantee  
14 may allow the use of free spaces in its poles, facilities or right-of-way by  
15 interested parties upon reasonable compensation to the grantee considering  
16 cost incurred to accommodate and administer the use of the grantee's facilities  
17 by such parties. The ERC shall decide in case of dispute or disagreement  
18 between parties.

19           SEC. 3. *Authority of the ERC.* – The grantee shall secure from the  
20 ERC or any other government agency which has jurisdiction over the operation  
21 of the herein grantee, the necessary certificate of public convenience and  
22 necessity and other appropriate permits and licenses for the construction and  
23 operation of its electric distribution system.

24           SEC. 4. *Excavation and Restoration Works.* – For the purpose of  
25 erecting and maintaining poles, pipes and other supports for said wires or other  
26 conductors for the purpose of laying and maintaining said facilities, wires,  
27 cables, pipes or other conductors, it shall be lawful for the grantee, its  
28 successors or assigns, with the prior approval of the Department of Public

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

17       SEC. 5. *Responsibility to the Public.* – The grantee shall supply  
18 electricity to its captive market in the least costly manner. In the interest of the  
19 public good and as far as feasible and whenever required by the ERC, the  
20 grantee shall modify, improve or change its facilities, poles, lines, systems and  
21 equipment for the purpose of providing efficient and reliable service and  
22 reasonable electricity costs. The grantee shall charge reasonable and just  
23 power rates for its services to all types of consumers within its franchised areas  
24 in order that business and industries shall be able to compete.

25       The grantee shall have the obligation to provide open and  
26 nondiscriminatory access to its distribution system and services for any  
27 end-user within its franchise area consistent with Republic Act No. 9136,  
28 otherwise known as the “Electric Power Industry Reform Act of 2001”, as may

1 be amended from time to time. The grantee shall not engage in any activity  
2 that will constitute an abuse of market power such as, but not limited to, unfair  
3 trade practices, monopolistic schemes and any other activities that will hinder  
4 competitiveness of business and industries.

5 *SEC. 6. Rates for Services.* – The retail rates and charges for the  
6 distribution of electric power by the grantee to its end-users shall be regulated  
7 by and subject to the approval of the ERC or its legal successor.

8 The grantee shall identify and segregate in its electricity bill to the  
9 end-users the components of the retail rate pursuant to Republic Act No. 9136,  
10 unless otherwise amended. Such rates charged by the grantee to the end-users  
11 shall be made public and transparent. The grantee shall implement lifeline rate  
12 to marginalized end-users as mandated under Republic Act No. 9136.

13 *SEC. 7. Promotion of Consumer Interests.* – The herein grantee shall  
14 establish a consumer desk that will handle consumer complaints and ensure  
15 adequate promotion of consumer interests. The grantee shall act with dispatch  
16 on all complaints brought before it.

17 *SEC. 8. Right of the Government.* – A special right is hereby reserved  
18 to the President of the Philippines, in times of war, rebellion, public peril,  
19 calamity, emergency, disaster or disturbance of peace and order, to temporarily  
20 take over and operate the stations or facilities of the grantee, to temporarily  
21 suspend the operation of any station or facility in the interest of public safety,  
22 security and public welfare, or to authorize the temporary use and operation  
23 thereof by any agency of the government, upon due compensation to the  
24 grantee, for the use of said stations or facilities during the period when they  
25 shall be so operated.

26 *SEC. 9. Right of Eminent Domain.* – Subject to the limitations and  
27 procedures prescribed by law, the grantee is authorized to exercise the right of  
28 eminent domain insofar as it may be reasonably necessary for the efficient

1 maintenance and operation of services. The grantee is authorized to install and  
2 maintain its poles, wires and other facilities over and across public property,  
3 including streets, highways, forest reserves and other similar property of the  
4 Government of the Philippines, its branches or any of its instrumentalities. The  
5 grantee may acquire such private property as is actually necessary for the  
6 realization of the purposes for which this franchise is granted: *Provided*, That  
7 proper condemnation proceedings shall have been instituted and just  
8 compensation paid.

9 SEC. 10. *Warranty in Favor of the National and Local Governments.*

10 -- The grantee shall hold the national, provincial, city and municipal  
11 governments of the Philippines free from all claims, accounts, demands or  
12 actions arising out of accidents or injuries, whether to property or to persons,  
13 caused by the construction, installation, operation and maintenance of the  
14 distribution system of the grantee.

15 SEC. 11. *Liability to Damages.* -- The grantee shall be liable for any

16 injury and damage arising from or caused by accident to persons and property  
17 by reason of any defective construction under this franchise or of any neglect  
18 or omission to keep its pole and wires in safe condition.

19 SEC. 12. *Sale, Lease, Transfer, Usufruct or Assignment of Franchise.*

20 -- The grantee shall not sell, lease, transfer, grant the usufruct of, or assign this  
21 franchise or the rights and privileges acquired thereunder to any person, firm,  
22 company, corporation or other commercial or legal entity, or merge with any  
23 other corporation or entity, or shall transfer the controlling interest of the  
24 grantee, whether as a whole or in parts and whether simultaneously or  
25 contemporaneously, to any such person, firm, company, corporation or entity  
26 without the prior approval of the Congress of the Philippines: *Provided*, That  
27 Congress shall be informed of any lease, transfer, granting the usufruct of, sale  
28 or assignment of franchise or the rights or privileges acquired within sixty (60)

1 days after the completion of said transaction: *Provided, further,* That any such  
2 transfer, sale or assignment is in accordance with the constitutional limitations:  
3 *Provided, furthermore,* That failure to report to Congress such change of  
4 ownership shall render the franchise *ipso facto* revoked: *Provided, finally,*  
5 That any person or entity to which this franchise is sold, transferred or  
6 assigned, shall be subject to the same conditions, terms, restrictions and  
7 limitations of this Act.

8 SEC. 13. *Equality Clause.* – Any advantage, favor, privilege,  
9 exemption or immunity granted under existing franchise, or which may  
10 hereafter be granted, upon prior review and approval of Congress, shall  
11 become part of this franchise and shall be accorded immediately and  
12 unconditionally to the herein grantee: *Provided, however,* That the foregoing  
13 shall neither apply to nor affect provisions concerning territory covered by the  
14 franchise, the life span of the franchise or the type of service authorized by the  
15 franchise: *Provided, further,* That the foregoing shall not apply to the sale,  
16 lease, transfer, grant of usufruct or assignment of legislative franchises with  
17 prior congressional approval.

18 SEC. 14. *Term of Franchise.* – This franchise shall be in effect for a  
19 period of twenty-five (25) years from the date of expiration of the grantee's  
20 franchise under Commonwealth Act No. 487, as amended, unless sooner  
21 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the  
22 grantee fails to operate continuously for two (2) years.

23 SEC. 15. *Dispersal of Ownership.* – In accordance with the  
24 constitutional provision to encourage public participation in public utilities, the  
25 grantee shall offer to Filipino citizens at least thirty percent (30%) of its  
26 outstanding capital stock or a higher percentage that may hereafter be provided  
27 by law in any securities exchange in the Philippines within five (5) years from  
28 the commencement of its operations: *Provided,* That in cases where public

1 offer of shares is not applicable, establishment of cooperatives and other  
2 methods of encouraging public participation by citizens and corporations  
3 operating public utilities and/or in compliance with the requirements under  
4 Section 28 of Republic Act No. 9136, otherwise known as the “Electric Power  
5 Industry Reform Act of 2001”, must be implemented. Noncompliance  
6 therewith shall render the franchise *ipso facto* revoked.

7       SEC. 16. *Applicability Clause.* – The grantee shall comply with and be  
8 subject to the provisions of Commonwealth Act No. 146, as amended,  
9 otherwise known as the “Public Service Act” and Republic Act No. 9136,  
10 otherwise known as the “Electric Power Industry Reform Act of 2001”.

11       SEC. 17. *Reportorial Requirement.* – The grantee shall submit an  
12 annual report to the Congress of the Philippines, through the Committee on  
13 Legislative Franchises of the House of Representatives and the Committee on  
14 Public Services of the Senate, on its compliance with the terms and conditions  
15 of the franchise and on its operations on or before April 30 of the succeeding  
16 year.

17       SEC. 18. *Penalty Clause.* – Any grantee who fails to submit the  
18 requisite Annual Report to Congress shall be fined Five hundred pesos  
19 (P500.00) per working day of noncompliance. The fine shall be collected by  
20 the ERC from said delinquent franchise grantee separate from the reportorial  
21 penalties imposed by the ERC. All proceeds from said fines or penalties shall  
22 accrue to the monitoring fund of the ERC in line with its supervisory and  
23 regulatory functions. The reportorial compliance certificate issued by  
24 Congress shall be required before any application for permit or certificate is  
25 accepted by the ERC.

26       SEC. 19. *Acceptance and Compliance.* – Acceptance of this franchise  
27 shall be given in writing to the Congress of the Philippines, through the  
28 Committee on Legislative Franchises of the House of Representatives and the

1 Committee on Public Services of the Senate, within sixty (60) days from the  
2 effectivity of this Act. Upon giving such acceptance, the grantee shall exercise  
3 the privileges granted under this Act. Nonacceptance shall render the franchise  
4 void.

5 SEC. 20. *Separability Clause.* – If any of the sections or provisions of  
6 this Act is held invalid, all the other provisions not affected thereby shall  
7 remain valid.

8 SEC. 21. *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. 22. *Publication.* – This Act shall be published, through the  
13 initiative of the grantee, fifteen (15) days after this Act is signed by the  
14 President of the Philippines or has lapsed into law.

15 SEC. 23. *Repealing Clause.* – All laws, decrees, orders, resolutions,  
16 instructions and rules and regulations or parts thereof which are inconsistent  
17 with this Act are hereby deemed repealed or modified accordingly.

18 SEC. 24. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
19 days from the date of its publication in at least two (2) newspapers of general  
20 circulation in the Philippines.

Approved,