



## HOUSE OF REPRESENTATIVES

H. No. 4507

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BY REPRESENTATIVES VIOLAGO, TEODORO AND ALIPING

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AN ACT RENEWING THE FRANCHISE OF CONTEL COMMUNICATIONS, INCORPORATED, ASSIGNEE OF THE GRANTEE UNDER REPUBLIC ACT NUMBERED THIRTY-NINE HUNDRED AND THIRTY-TWO, AS AMENDED BY REPUBLIC ACT NUMBERED SEVENTY-FOUR HUNDRED AND ONE, ENTITLED "AN ACT GRANTING THE CONCEPCION INDUSTRIES, INCORPORATED A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE RADIOTELEPHONE STATIONS FOR THE TRANSMISSION AND RECEPTION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES" FOR ANOTHER TWENTY-FIVE (25) YEARS FROM 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 1987 Philippine Constitution and applicable laws, rules and
- 3 regulations, the franchise granted to CONTEL Communications, Incorporated,
- 4 assignee of the grantee under Republic Act No. 3932, entitled "An Act
- 5 Granting the Concepcion Industries, Incorporated a Franchise to Construct,
- 6 Maintain, and Operate Radiotelephone Stations for the Transmission and

1 Reception of Radio Communications within the Philippines”, and as amended  
2 by Republic Act No. 7401, to construct, install, establish, operate, and  
3 maintain for commercial purposes and in the public interest, wire and/or  
4 wireless telecommunications systems including, but not limited to, mobile,  
5 cellular, paging, fiber optics, satellite transmit and receive systems, switches,  
6 and their value-added services such as, but not limited to, transmission of  
7 voice, data, facsimile, control signs, audio and video, information services  
8 bureau and all other telecommunications systems technologies as are at present  
9 available or will be made available through technological advances or  
10 innovations in the future; and/or construct, acquire, lease and operate or  
11 manage transmitting and receiving stations, lines, cables or systems throughout  
12 the Philippines, is hereby renewed for another twenty-five (25) years from the  
13 effectivity of this Act.

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

22       SEC. 3. *Authority of the National Telecommunications Commission.* –  
23 The grantee shall secure from the National Telecommunications Commission  
24 (NTC) a Certificate of Public Convenience and Necessity or the appropriate  
25 permits and licenses for the construction, installation and operation of its  
26 telecommunications systems/facilities. In issuing the certificate, the NTC shall  
27 have the power to impose such conditions relative to the construction,  
28 operation, maintenance, or service level of the telecommunications system.  
29 The NTC shall have the authority to regulate the construction and operation of

1 its telecommunications systems. The grantee shall not use any frequency in the  
2 radio spectrum without authorization from the NTC. Such certificate shall  
3 state the areas covered and date the grantee shall commence the service. The  
4 NTC, however, shall not unreasonably withhold or delay the grant of such  
5 authority, permits or licenses.

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

27         SEC. 5. *Responsibility to the Public.* – The grantee shall conform to  
28 the ethics of honest enterprise and not use its stations/facilities for obscene or

1 indecent transmission or for dissemination of deliberately false information or  
2 willful misrepresentation, or assist in subversive or treasonable acts.

3 The grantee shall provide basic or enhanced telephone service in any  
4 city and/or municipality in the Philippines where it has an approved Certificate  
5 of Public Convenience and Necessity for the establishment, operation and  
6 maintenance of a local exchange service, without discrimination to any  
7 applicant therefor, in the order of the date of their applications, up to the limit  
8 of the capacity of its local telephone exchange, and should the demand for the  
9 telephone service at any time increase beyond the capacity thereof, the grantee  
10 shall increase the same to meet such demand: *Provided*, That in case the total  
11 demand to be satisfied by the expansion is less than the smallest viable local  
12 exchange available in the market as determined by the NTC, the grantee shall  
13 not be obliged to furnish such service unless the applicant for telephone service  
14 defrays the actual expenses for the installation of the telecommunications  
15 apparatus necessary for such services and in such case, the NTC may extend  
16 the time within which the grantee shall furnish such service.

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

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

1           SEC. 7. *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. 8. *Term of Franchise.* – This franchise shall be in effect for a  
15 period of twenty-five (25) years from the date of effectivity of this Act, unless  
16 sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the  
17 event the grantee fails to operate continuously for two (2) years.

18           SEC. 9. *Acceptance and Compliance.* – Acceptance of this franchise  
19 shall be given in writing to the Congress of the Philippines, through the  
20 Committee on Legislative Franchises of the House of Representatives and the  
21 Committee on Public Services of the Senate within sixty (60) days from the  
22 effectivity of this Act. Upon giving such acceptance, the grantee shall exercise  
23 the privileges granted under this Act. Nonacceptance shall render the franchise  
24 void.

25           SEC. 10. *Right of Interconnection.* – The grantee is hereby authorized  
26 to connect or demand connection of its telecommunications systems to other  
27 telecommunications systems installed, operated and maintained by any other  
28 duly authorized person or entity in the Philippines for the purpose of providing  
29 extended and improved telecommunications services to the public, under such

1 terms and conditions mutually agreed upon by the parties concerned and the  
2 same shall be subject to the review and modification of the NTC.

3       SEC. 11. *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. 12. *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. 13. *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. 14. *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 except when the  
27 person or entity to which this franchise is sold, transferred or assigned is a  
28 subsidiary or affiliate of the grantee and that at least sixty percent (60%) of  
29 the outstanding capital stock entitled to vote of such subsidiary or affiliate is

1 owned and held by Filipino citizens: *Provided*, That Congress shall be  
2 informed of any sale, lease, transfer, grant of usufruct, or assignment of  
3 franchise or the rights or privileges acquired thereunder, or of the merger, or  
4 transfer of controlling interest of the grantee, within sixty (60) days after the  
5 completion of said transaction: *Provided, further*, That failure to report to  
6 Congress such change of ownership shall render the franchise *ipso facto*  
7 revoked: *Provided, finally*, That any person or entity to which this franchise is  
8 sold, transferred or assigned, shall be subject to the same conditions, terms,  
9 restrictions and limitations of this Act.

10 A subsidiary or affiliate of the grantee refers to a person that, upon the  
11 effectivity of this Act, directly or indirectly, through one (1) or more  
12 intermediary corporations, owns more than thirty percent (30%) of the  
13 outstanding capital stock of the grantee.

14 SEC. 15. *Dispersal of Ownership*. – In accordance with the  
15 constitutional provision to encourage public participation in public utilities, the  
16 grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher  
17 percentage that may hereafter be provided by law of its outstanding capital  
18 stock *in any securities exchange* in the Philippines within five (5) years from  
19 the commencement of its operations: *Provided*, That in cases where public  
20 offer of shares is not applicable, establishment of cooperatives operating public  
21 utilities must be implemented. Noncompliance therewith shall render the  
22 franchise *ipso facto* revoked.

23 SEC. 16. *Reportorial Requirement*. – The grantee shall submit an  
24 annual report to the Congress of the Philippines, through the Committee on  
25 Legislative Franchises of the House of Representatives and the Committee on  
26 Public Services of the Senate, on its compliance with the terms and conditions  
27 of the franchise and on its operations on or before April 30 of every year  
28 during the term of its franchise. The reportorial compliance certificate issued

1 by Congress shall be required before any application for permit or certificate is  
2 accepted by the NTC.

3 SEC. 17. *Penalty Clause.* – Failure of the grantee to submit the  
4 requisite annual report to Congress shall be fined five hundred pesos (P500.00)  
5 per working day of noncompliance. The fine shall be collected by the NTC  
6 from said delinquent franchise grantee separate from the reportorial penalties  
7 imposed by the NTC.

8 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege,  
9 exemption, or immunity granted under other 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 of telecommunications franchises  
14 concerning territory covered by the franchise, the life span of the franchise or  
15 the type of service authorized by the franchise.

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

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

23 SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after  
24 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,