

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

15 NOV -9 P6 40

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 293

Submitted by the Committee on Public Services on NOV 09 2015

RE : H. B. No. 5591

Recommending its approval with amendment.

Sponsor : Senator Osmeña, III

MR. PRESIDENT:

The Senate Committee on Public Services to which was referred H. B. No. 5591, introduced by Representatives Yap (S), Teodoro and Aliping, entitled:

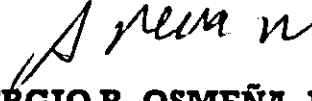
"AN ACT
EXTENDING FOR A PERIOD OF TWENTY-FIVE (25) YEARS
THE TERM OF THE FRANCHISE GRANTED TO TARLAC
ELECTRIC, INC. (FORMERLY KNOWN AS TARLAC
ENTERPRISES, INC.) TO CONSTRUCT, OPERATE, AND
MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER
SYSTEM IN THE CITY OF TARLAC, PROVINCE OF
TARLAC, PROVIDED UNDER REPUBLIC ACT NO. 7606."

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H. B. No. 5591 be approved with amendment, to wit:

1. On page 6 line 16, after the word "years" delete the words "from the date of effectivity of this Act," and insert the phrase "**THAT SHALL TAKE EFFECT UPON THE EXPIRATION OF THE TERM GRANTED UNDER SECTION 1 OF REPUBLIC ACT NO. 7606**", with Senator Osmeña as sponsor thereof.

Respectfully submitted:


RAMON BONG REVILLA, JR.
Chairman
Committee on Public Services


SERGIO R. OSMEÑA, III
Acting Chairperson
Committee on Public Services

MEMBERS:



SONNY M. ANGARA



PIA S. CAYETANO



JINGGOY EJERCITO ESTRADA



JOSEPH VICTOR G. EJERCITO



GREGORIO B. HONASAN, III



LOREN B. LEGARDA



GRACE POE

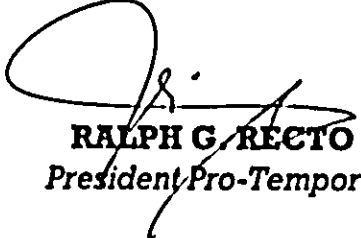


ANTONIO B. TRILLANES, IV



CYNTHIA A. VILLAR

EX-OFFICIO MEMBERS:



RALPH G. RECTO
President Pro-Tempore

JUAN PONCE ENRILE
Minority Floor Leader

ALAN PETER S. CAYETANO
Majority Floor Leader

FRANKLIN M. DRILON
Senate President
Pasay City

CONGRESS OF THE PHILIPPINES
SIXTEENTH CONGRESS
Second Regular Session

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HOUSE OF REPRESENTATIVES

HL No. 5591

BY REPRESENTATIVES YAP (S.), TEODORO AND ALIPING, PER COMMITTEE
REPORT NO. 626

AN ACT EXTENDING FOR A PERIOD OF TWENTY-FIVE (25) YEARS
THE TERM OF THE FRANCHISE GRANTED TO TARLAC
ELECTRIC, INC. (FORMERLY KNOWN AS TARLAC
ENTERPRISES, INC.) TO CONSTRUCT, OPERATE, AND
MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM
IN THE CITY OF TARLAC, PROVINCE OF TARLAC, PROVIDED
UNDER REPUBLIC ACT NO. 7606

*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 Tarlac Electric, Inc. (formerly known as
4 Tarlac Enterprises, Inc.) under Republic Act No. 7606, entitled "An Act
5 Granting Tarlac Enterprises, Inc. a Franchise to Construct, Operate and
6 Maintain an Electric Light, Heat and Power System in the Municipality of
7 Tarlac, Province of Tarlac, for a Period of twenty-five (25) Years, and for
8 Other Purposes", is hereby renewed for another twenty-five (25) years from the
9 effectivity of this Act.

1 As used in this Act, distribution system refers to the systems of wires
2 and associated facilities including subtransmission lines belonging to a
3 franchised distribution utility extending between the delivery point on the
4 national transmission system or generating facility and the metering
5 point/facility of the end-user.

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

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

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

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

23 **SEC. 5. Responsibility to the Public.** – The grantee shall supply
24 electricity to its captive market in the least costly manner. In the interest of the
25 public good and as far as feasible and whenever required by the ERC, the
26 grantee shall modify, improve, or change its facilities, poles, lines, systems and
27 equipment for the purpose of providing efficient and reliable service and
28 reduced electricity costs. The grantee shall charge reasonable and just power

1 rates for its services to all types of consumers within its franchised areas in
2 order that business and industries shall be able to compete.

3 The grantee shall have the obligation to provide open and
4 nondiscriminatory access to its distribution system and services for any
5 end-user within its franchise area consistent with Republic Act No. 9136,
6 otherwise known as the "Electric Power Industry Reform Act of 2001". The
7 grantee shall not engage in any activity that will constitute an abuse of market
8 power such as unfair trade practices, monopolistic schemes, and other
9 activities that will hinder competitiveness of business and industries.

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

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

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

22 *SEC. 8. Right of Government.* – A special right is hereby reserved to
23 the President of the Philippines, in times of war, rebellion, public peril,
24 calamity, emergency, disaster or disturbance of peace and order: to temporarily
25 take over and operate the stations or facilities of the grantee; to temporarily
26 suspend the operation of any station or facility in the interest of public safety,
27 security and public welfare; or to authorize the temporary use and operation
28 thereof by any agency of the government, upon due compensation to the

1 grantee, for the use of the stations or facilities during the period when they
2 shall be so operated.

3 **SEC. 9. *Right of Eminent Domain.*** – Subject to the limitations and
4 procedures prescribed by law, the grantee is authorized to exercise the right of
5 eminent domain insofar as it may be reasonably necessary for the efficient
6 maintenance and operation of services. The grantee is authorized to install and
7 maintain its poles, wires, and other facilities over and across public property,
8 including streets, highways, forest reserves, and other similar property of the
9 Government of the Philippines, its branches, or any of its instrumentalities. The
10 grantee may acquire such private property as is actually necessary for the
11 realization of the purposes for which this franchise is granted: *Provided*, That
12 proper expropriation proceedings shall have been instituted and just
13 compensation paid.

14 **SEC. 10. *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. 11. *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 such acceptance, the grantee shall exercise the
23 privileges granted under this Act. Nonacceptance shall render the franchise
24 void.

25 **SEC. 12. *Warranty in Favor of the National and Local Governments.***
26 – The grantee shall hold the national, provincial, city, and municipal
27 governments of the Philippines free from all claims, accounts, demands, or
28 actions arising out of accidents or injuries, whether to property or to persons,

1 caused by the construction, installation, operation, and maintenance of the
2 distribution system of the grantee.

3 **SEC. 13. *Liability for Damages.*** – The grantee shall be liable for any
4 injury and damage arising from or caused by accident to persons and property
5 by reason of any defective construction under this franchise or of any neglect
6 or omission to keep its poles and wires in safe condition.

7 **SEC. 14. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.***
8 – The grantee shall not sell, lease, transfer, grant the usufruct of, or assign this
9 franchise or the rights and privileges acquired thereunder to any person, firm,
10 company, corporation, or other commercial or legal entity, or merge with any
11 other corporation, or entity, or shall transfer the controlling interest of the
12 grantee, whether as a whole or in parts, and whether simultaneously or
13 contemporaneously, to any such person, firm, company, corporation, or entity
14 without the prior approval of the Congress of the Philippines: *Provided*, That
15 Congress shall be informed of any lease, transfer, granting the usufruct of, sale,
16 or assignment of franchise or the rights and privileges acquired thereunder, or
17 of the merger, or sale of the controlling interest within sixty (60) days after the
18 completion of said transaction: *Provided, further*, That any such transfer, sale,
19 or assignment is in accordance with the constitutional limitations: *Provided,*
20 *furthermore*, That failure to report to Congress such change of ownership shall
21 render the franchise *ipso facto* revoked: *Provided, finally*, That any person or
22 entity to which this franchise is sold, transferred, or assigned, shall be subject
23 to the same conditions, terms, restrictions, and limitations of this Act.

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

1 the commencement of its operations: *Provided*, That in cases where public
2 offer of shares is not applicable, establishment of cooperatives and other
3 methods of encouraging public participation by citizens and corporations
4 operating public utilities must be implemented. Noncompliance therewith shall
5 render the franchise *ipso facto* revoked.

6 SEC. 16. *Reportorial Requirement.* - The grantee shall submit an
7 annual report to the Congress of the Philippines, through the Committee on
8 Legislative Franchises of the House of Representatives and the Committee on
9 Public Services of the Senate, on its compliance with the terms and conditions
10 of the franchise and on its operations on or before April 30 of every year
11 during the term of the franchise. The reportorial compliance certificate issued
12 by Congress shall be required before any application for permit or certificate is
13 accepted by the ERC.

14 SEC. 17. *Penalty Clause.* - The failure of the grantee to submit the
15 requisite annual report to Congress shall be penalized by a fine in the amount
16 of five hundred pesos (P500.00) per working day of noncompliance. The fine
17 shall be collected by the ERC from the delinquent franchise grantee separate
18 from the reportorial penalties imposed by the ERC. All proceeds from the
19 fines or penalties shall accrue to the monitoring fund of the ERC in line with its
20 supervisory and regulatory functions.

21 SEC. 18. *Equality Clause.* - Any advantage, favor, privilege,
22 exemption, or immunity granted under existing franchises, or which may
23 hereafter be granted, upon prior review and approval of Congress, shall
24 become part of this franchise and shall be accorded immediately and
25 unconditionally to the herein grantee: *Provided, however*, That the foregoing
26 shall neither apply to nor affect provisions concerning territory covered by the
27 franchise, the life span of the franchise or the type of service authorized by the
28 franchise: *Provided, further*, That the foregoing shall not apply to the sale,

1 lease, transfer, grant of usufruct, or assignment of legislative franchises with
2 prior congressional approval.

3 **SEC.19. *Applicability Clause.*** – The grantee shall comply with and be
4 subject to the provisions of Commonwealth Act No. 146, as amended,
5 otherwise known as the “Public Service Act” and Republic Act No. 9136,
6 otherwise known as the “Electric Power Industry Reform Act of 2001”.

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

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

14 **SEC. 22. *Effectivity.*** – This Act shall take effect fifteen (15) days after
15 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,