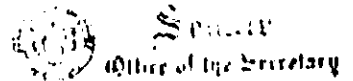


**SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)**



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SENATE

RECEIVED BY:

COMMITTEE REPORT NO. 350

Submitted by the Committee on Public Services on JAN 13 2016

RE : H. B. No. 5571

Recommending its approval without amendment.

Sponsor : Senator Osmeña, III

MR. PRESIDENT:


The Senate Committee on Public Services to which was referred H. B. No. 5571, introduced by Representatives Quisumbing, Del Mar and Teodoro, entitled:

**"AN ACT
GRANTING THE MACTAN ELECTRIC COMPANY, INC.
(MECO) 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 LAPU-LAPU AND THE
MUNICIPALITY OF CORDOVA, PROVINCE OF CEBU."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H. B. No. 5571 be approved without amendment.

Respectfully submitted:


RAMON BONG REVILLA, JR.
Chairman
Committee on Public Services


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

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JUAN PONCE ENRILE
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Majority Floor Leader

FRANKLIN M. DRILON
Senate President
Pasay City

CONGRESS OF THE PHILIPPINES
SIXTEENTH CONGRESS
Second Regular Session

}

HOUSE OF REPRESENTATIVES

II. No. 5571

BY REPRESENTATIVES QUISUMBING, DEL MAR AND TEODORO, PER
COMMITTEE REPORT NO. 611

AN ACT GRANTING THE MACTAN ELECTRIC COMPANY, INC. (MECO) 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 LAPU-LAPU AND THE MUNICIPALITY OF CORDOVA, PROVINCE OF CEBU

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 the Mactan Electric Company, Inc.
4 (MECO), hereunder referred to as the grantee, its successors or assignees, a
5 franchise to construct, install, establish, operate and maintain for commercial
6 purposes and in the public interest, a distribution system for the conveyance of
7 electric power to the end users in the City of Lapu-Lapu and the Municipality
8 of Cordova, Province of Cebu.

9 As used in this Act, distribution system refers to the system of wires and
10 associated facilities including sub-transmission lines belonging to a franchised

1 distribution utility extending between the delivery point on the national
2 transmission system or generating facility and the metering point/facility of the
3 end user.

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

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

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

26 **SEC. 4. *Excavation and Restoration Works.*** – For the purpose of
27 erecting and maintaining poles, pipes and other supports for the wires or other
28 conductors for the purpose of laying and maintaining the facilities, wires,

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

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

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

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

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

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

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

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

12 **SEC. 10. *Term of Franchise.*** – This franchise shall be in effect for a
13 period of twenty-five (25) years from the date of effectivity of this Act, unless
14 sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the
15 event the grantee fails to operate continuously for two (2) years.

16 **SEC. 11. *Acceptance and Compliance.*** – Acceptance of this franchise
17 shall be given in writing to the Congress of the Philippines, through the
18 Committee on Legislative Franchises of the House of Representatives and the
19 Committee on Public Services of the Senate within sixty (60) days from the
20 effectivity of this Act. Upon giving such acceptance, the grantee shall exercise
21 the privileges granted under this Act. Nonacceptance shall render the
22 franchise void.

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

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

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

22 **SEC. 15. Dispersal of Ownership.** – In accordance with the
23 constitutional provision to encourage public participation in public utilities,
24 the grantee shall offer to Filipino citizens at least thirty percent (30%) of its
25 outstanding capital stock or a higher percentage that may hereafter be
26 provided by law in any securities exchange in the Philippines within five (5)
27 years from the commencement of its operations: *Provided*, That in cases
28 where public offer of shares is not applicable, establishment of cooperatives

1 and other methods of encouraging public participation by citizens and
2 corporations operating public utilities must be implemented. Noncompliance
3 therewith shall render the franchise *ipso facto* revoked.

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

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

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

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

5 **SEC. 20. *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. 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. *Effectivity.*** – This Act shall take effect fifteen (15) days after
13 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,