

(AS AMENDED BY THE SENATE)

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HOUSE OF REPRESENTATIVES

H. No. 6314

BY REPRESENTATIVES MADRONA, ALVAREZ (F.), MARCOLETA, TEJADA,
VILLAFUERTE, ACOSTA, CHIPECO, ERMITA-BUHAIN, ABU, BERTIZ,
SAVELLANO, TY AND GASATAYA, PER COMMITTEE REPORT NO. 370

AN ACT GRANTING STREAMTECH SYSTEMS TECHNOLOGIES
INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE, AND MAINTAIN TELECOMMUNICATIONS
SYSTEMS THROUGHOUT THE PHILIPPINES

*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 Streamtech Systems Technologies Inc., hereunder referred
4 to as the grantee, its successors or assignees, a franchise to construct, install,
5 establish, operate, and maintain for commercial purposes and in the public
6 interest, an international gateway facility to serve and connect the Philippines
7 to other countries and territories, wire and/or wireless telecommunications
8 systems, international and national broadband system, mobile and cellular,
9 including, but not limited to, fiber optics, multichannel multipoint distribution
10 systems, switches, and their value-added services such as transmission of
11 voice, data, facsimile, control signs, audio and video, information services and
12 all other value-added technologies as are available or will be made available
13 through technological advances or innovations in the future; and/or construct,
14 acquire, lease and operate, or manage transmitting and receiving stations, lines,

1 cables, or systems as is or are convenient or essential to efficiently carry out
2 the purpose of this franchise.

3 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations
4 or facilities of the grantee shall be constructed and operated in a manner as
5 will, at most, result only in the minimum interference on the wavelengths or
6 frequencies of existing stations or other stations which may be established by
7 law, without in any way diminishing its own privilege to use its assigned
8 wavelengths or frequencies and the quality of transmission or reception thereon
9 as should maximize rendition of the grantee's services and/or the availability
10 thereof.

11 SEC. 3. *Authority of the National Telecommunications Commission.* –
12 The grantee shall secure from the National Telecommunications Commission
13 (NTC) a Certificate of Public Convenience and Necessity or the appropriate
14 permits and licenses for the construction, installation, and operation of its
15 telecommunications systems/facilities. In issuing the certificate, the NTC shall
16 have the power to impose such conditions relative to the construction,
17 operation, maintenance, or service level of the telecommunications systems.
18 The NTC shall also have the authority to regulate the construction and
19 operation of the grantee's telecommunications systems. The grantee shall not
20 use any frequency in the radio spectrum without authorization from the NTC.
21 Such certificate shall state the areas covered and the date the grantee shall
22 commence the service. The NTC, however, shall not unreasonably withhold or
23 delay the grant of such authority, permit, or license.

24 SEC. 4. *Excavation and Restoration Works.* – For the purpose of
25 erecting and maintaining poles or other supports for said wires or other
26 conductors for the purpose of laying and maintaining underground wires,
27 cables, or other conductors, the grantee, its successors or assignees, shall be
28 authorized to make excavations or lay conduits in any of the public places,

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

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

22 [The grantee shall provide basic or enhanced telephone service in any
23 city and/or municipality in the Philippines where it has an approved Certificate
24 of Public Convenience and Necessity for the establishment, operation, and
25 maintenance of a local exchange service, without discrimination to any
26 applicant therefor, in the order of the date of their applications, up to the limit
27 of the capacity of its local telephone exchange and, should demand for the
28 telephone service at any time increase beyond the capacity thereof, the grantee]

1 [shall increase the same to meet such demand: *Provided*, That in case the total
2 demand to be satisfied by the expansion is less than the smallest viable local
3 exchange available in the market as determined by the NTC, the grantee shall
4 not be obliged to furnish such service unless the applicant for telephone service
5 defrays the actual expenses for the installation of the telecommunications
6 apparatus necessary for such services and in such case, the NTC may extend
7 the time within which the grantee shall furnish such service.]

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

14 THE GRANTEE SHALL IMPROVE AND EXTEND ITS
15 SERVICES IN AREAS NOT SERVED, AND IN HAZARD- AND
16 TYPHOON-PRONE AREAS THAT SHALL BE DETERMINED BY
17 THE NATIONAL DISASTER RISK REDUCTION AND
18 MANAGEMENT COUNCIL IN COORDINATION WITH THE NTC.

19 THE GRANTEE SHALL ALSO IMPROVE AND UPGRADE
20 ITS EQUIPMENT, FACILITIES, AND SERVICES, IN ORDER TO
21 ENSURE EFFECTIVE COMPLIANCE WITH THE OBJECTIVES
22 OF REPUBLIC ACT NO. 10639 OR THE "FREE MOBILE
23 DISASTER ALERTS ACT".

24 SEC. 6. *Rates for Services.* - The charges and rates for
25 telecommunications services of the grantee, except the rates and charges on
26 those that may hereafter be declared or considered as nonregulated services,
27 whether flat rates or measured rates or variation thereof, shall be subject to the

1 approval of the NTC or its legal successor. [The rates to be charged by the
2 grantee shall be unbundled, separable, and distinct among the services offered
3 and shall be determined in such a manner that regulated services do not
4 subsidize the unregulated ones.]

5 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource
6 that is part of the national patrimony and the use thereof is a privilege
7 conferred upon the grantee by the State and may be withdrawn any time after
8 due process.

9 A special right is hereby reserved to the President of the Philippines, in
10 times of war, rebellion, public peril, calamity, emergency, disaster, or
11 disturbance of peace and order: to temporarily take over and operate the
12 stations, transmitters, facilities, or equipment of the grantee; to temporarily
13 suspend the operation of any station, transmitter, facility, or equipment in the
14 interest of public safety, security, and public welfare; or to authorize the
15 temporary use and operation thereof by any agency of the government, upon
16 due compensation to the grantee, for the use of said stations, transmitters,
17 facilities, or equipment during the period when these shall be so operated.

18 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a
19 period of twenty-five (25) years from the date of the effectivity of this Act,
20 unless sooner cancelled. This franchise shall be deemed *ipso facto* revoked in
21 the event the grantee fails to comply with any of the following conditions:

22 (a) Commence operations within one (1) year from the approval of its
23 operating permit by the NTC;

24 (b) Commence operations within three (3) years from the effectivity of
25 this Act; and

26 (c) Operate continuously for two (2) years.

27 SEC. 9. *ACCEPTANCE AND COMPLIANCE.* – ACCEPTANCE
28 OF THIS FRANCHISE SHALL BE GIVEN IN WRITING TO THE

1 CONGRESS OF THE PHILIPPINES, THROUGH THE
2 COMMITTEE ON LEGISLATIVE FRANCHISES OF THE HOUSE
3 OF REPRESENTATIVES AND THE COMMITTEE ON PUBLIC
4 SERVICES OF THE SENATE WITHIN SIXTY (60) DAYS FROM
5 THE EFFECTIVITY OF THIS ACT. UPON GIVING SUCH
6 ACCEPTANCE, THE GRANTEE SHALL EXERCISE THE
7 PRIVILEGES GRANTED UNDER THIS ACT. REFUSAL OR
8 FAILURE TO ACCEPT THE FRANCHISE SHALL RENDER THE
9 FRANCHISE VOID.

10 SEC. 10. *COMMITMENT TO PROVIDE AND PROMOTE THE*
11 *CREATION OF EMPLOYMENT OPPORTUNITIES.* - THE
12 GRANTEE SHALL CREATE EMPLOYMENT OPPORTUNITIES
13 AND SHALL ALLOW ON-THE-JOB TRAININGS IN THEIR
14 FRANCHISE OPERATION: *PROVIDED*, THAT PRIORITY SHALL
15 BE ACCORDED TO THE RESIDENTS IN AREAS WHERE THEIR
16 PRINCIPAL OFFICE IS LOCATED: *PROVIDED, FURTHER*, THAT
17 THE GRANTEE SHALL FOLLOW THE APPLICABLE LABOR
18 STANDARDS AND ALLOWANCE ENTITLEMENT UNDER
19 EXISTING LABOR LAWS, RULES AND REGULATIONS AND
20 SIMILAR ISSUANCES: *PROVIDED, FINALLY*, THAT THE
21 EMPLOYMENT OPPORTUNITIES OR JOBS CREATED SHALL
22 BE REFLECTED IN THE GENERAL INFORMATION SHEET (GIS)
23 TO BE SUBMITTED TO SECURITIES AND EXCHANGE
24 COMMISSION ANNUALLY.

25 SEC. 11. *TAX PROVISIONS.* - THE GRANTEE, ITS
26 SUCCESSORS OR ASSIGNEES, SHALL BE LIABLE TO PAY THE

1 SAME TAXES ON THEIR REAL ESTATE, BUILDINGS AND
2 PERSONAL PROPERTY, EXCLUSIVE OF THIS FRANCHISE, AS
3 OTHER PERSONS OR CORPORATIONS WHICH ARE NOW OR
4 THEREAFTER MAY BE ACQUIRED BY LAW TO PAY, EXCEPT
5 RADIO TELECOMMUNICATIONS AND ELECTRONIC
6 COMMUNICATIONS EQUIPMENT, MACHINERY, AND SPARE
7 PARTS NEEDED IN THE CONNECTION WITH THE BUSINESS
8 OF THE GRANTEE WHICH SHALL BE EXEMPT FROM
9 CUSTOMS DUTIES, TARIFFS AND OTHER TAXES, AS WELL
10 AS THOSE DECLARED EXEMPT IN THIS SECTION. IN
11 ADDITION THERETO, THE GRANTEE, ITS SUCCESSORS, OR
12 ASSIGNEES, SHALL PAY A VALUE-ADDED TAX ON ALL
13 GROSS RECEIPTS OF THE BUSINESS TRANSACTED UNDER
14 THIS FRANCHISE BY THE GRANTEE, ITS SUCCESSORS OR
15 ASSIGNEES, IN THE PHILIPPINES IN LIEU OF ANY AND ALL,
16 TAXES OF ANY KIND, NATURE, OR DESCRIPTION LEVIED,
17 ESTABLISHED, OR COLLECTED BY AN AUTHORITY
18 WHATSOEVER INCLUDING, BUT NOT LIMITED TO, CITY,
19 MUNICIPAL, PROVINCIAL, OR NATIONAL, FROM WHICH THE
20 GRANTEE IS HEREBY EXPRESSLY EXEMPTED EFFECTIVE
21 FROM THE DATE OF THE EFFECTIVITY OF THIS ACT:
22 *PROVIDED*, THAT THE GRANTEE, ITS SUCCESSORS OR
23 ASSIGNEES, SHALL CONTINUE TO BE LIABLE FOR INCOME
24 TAXES PAYABLE UNDER TITLE II OF THE NATIONAL
25 INTERNAL REVENUE CODE PURSUANT TO SECTION 2 OF
26 THE EXECUTIVE ORDER NO. 72, UNLESS THE LATTER

1 ENACTMENT IS AMENDED OR REPEALED, IN WHICH CASE
2 AMENDMENT OR REPEAL SHALL BE APPLICABLE THERETO.

3 THE GRANTEE SHALL FILE THE RETURN WITH AND
4 PAY THE TAX THEREON TO THE COMMISSIONER OF
5 INTERNAL REVENUE OR HIS DULY AUTHORIZED
6 REPRESENTATIVE IN ACCORDANCE WITH THE NATIONAL
7 INTERNAL REVENUE CODE AND THE RETURN SHALL BE
8 SUBJECTED TO AUDIT BY THE BUREAU OF INTERNAL
9 REVENUE.

10 SEC. [9] 12. *Bond.* – The grantee shall file a bond with the NTC, in the
11 amount that the NTC shall determine, to guarantee compliance with and
12 fulfillment of the conditions under which this franchise is granted. If, after
13 three (3) years from the date of the approval of its permit by the NTC, the
14 grantee shall have fulfilled the same, the bond shall be released by the NTC.
15 Otherwise, the bond shall be forfeited in favor of the government and the
16 franchise *ipso facto* revoked.

17 SEC. [10] 13. *Right of Interconnection.* – The grantee is hereby
18 authorized to connect or demand connection of its telecommunications systems
19 to other telecommunications systems installed, operated, and maintained by
20 any other duly authorized person or entity in the Philippines for the purpose of
21 providing extended and improved telecommunications services to the public,
22 under such terms and conditions mutually agreed upon by the parties
23 concerned and the same shall be subject to the review and modification of the
24 .NTC.

25 SEC. [11] 14. *Warranty in Favor of the National and Local*
26 *Governments.* – The grantee shall hold the national, provincial, city, and
27 municipal governments of the Philippines free from all claims, liabilities,

1 demands, or actions arising out of accidents causing injury to persons or
2 damage to property, during the construction or operation of the stations,
3 transmitters, facilities, or equipment of the grantee.

4 SEC. 15. *MOBILE NUMBER PORTABILITY.* – THE GRANTEE
5 SHALL PROVIDE MOBILE NUMBER PORTABILITY (MNP). IT
6 SHALL SET UP A MECHANISM FOR THE PURPOSE OF
7 IMPLEMENTING MNP. IT SHALL INTERCONNECT DIRECTLY
8 OR INDIRECTLY WITH THE INFRASTRUCTURE, FACILITIES,
9 SYSTEMS, OR EQUIPMENT OF OTHER TELECOMMUNICATIONS
10 FRANCHISES GRANTEES. IT SHALL NOT INSTALL NETWORK
11 FEATURES, FUNCTIONS OR CAPABILITIES THAT WILL
12 IMPEDE THE IMPLEMENTATION OF A NATIONWIDE MNP
13 SYSTEM. THE NTC SHALL ISSUE RULES AND REGULATIONS
14 FOR THIS PURPOSE, THE EFFECTIVITY OF WHICH SHALL
15 COMMENCE UPON APPLICABILITY WITH OTHER
16 TELECOMMUNICATIONS FRANCHISE GRANTEES.

17 SEC. [12] 16. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment*
18 *of Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of,
19 nor assign this franchise or the rights and privileges acquired thereunder to any
20 person, firm, company, corporation or other commercial or legal entity, nor
21 merge with any other corporation or entity, nor shall transfer the controlling
22 interest of the grantee, whether as a whole or in part, and whether
23 simultaneously or contemporaneously, to any such person, firm, company,
24 corporation, or entity without the prior approval of the Congress of the
25 Philippines: *Provided,* That Congress shall be informed of any sale, lease,
26 transfer, grant of usufruct, or assignment of franchise or the rights and
27 privileges acquired thereunder, or of the merger or transfer of the controlling

1 interest of the grantee, within sixty (60) days after the completion of said
2 transaction: *Provided, further*, That failure to report to Congress such change
3 of ownership shall render the franchise *ipso facto* revoked: *Provided, finally*,
4 That any person or entity to which this franchise is sold, transferred, or
5 assigned shall be subject to the same conditions, terms, restrictions, and
6 limitations of this Act.

7 SEC. [13] 17. *Dispersal of Ownership*. – In accordance with the
8 constitutional provision to encourage public participation in public utilities, the
9 grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher
10 percentage that may hereafter be provided by law of its outstanding capital
11 stock in any securities exchange in the Philippines within five (5) years from
12 the commencement of its operations: *Provided*, That in cases where public
13 offer of shares is not applicable, establishment of cooperatives operating public
14 utilities must be implemented. Noncompliance therewith shall render the
15 franchise *ipso facto* revoked.

16 SEC. [14] 18. *Reportorial Requirement*. – The grantee shall submit an
17 annual report to the Congress of the Philippines, through the Committee on
18 Legislative Franchises of the House of Representatives and the Committee on
19 Public Services of the Senate, on its compliance with the terms and conditions
20 of the franchise and on its operations on or before April 30 of every year
21 during the term of its franchise. The reportorial compliance certificate issued
22 by Congress shall be required before any application for permit or certificate is
23 accepted by the NTC.

24 SEC. [15] 19. *Fine*. – Failure of the grantee to submit the requisite
25 annual report to Congress shall be penalized [by a fine in the amount of five
26 hundred pesos (P500.00) per working day of noncompliance. The fine shall be
27 collected separately by the NTC distinct from the penalties it imposes for
28 noncompliance of its own reportorial requirements.] WITH A FINE IN THE

1 AMOUNT OF ONE MILLION PESOS (P1,000,000.00) PER
2 WORKING DAY OF NONCOMPLIANCE, THE EFFECTIVITY OF
3 WHICH SHALL COMMENCE UPON APPLICABILITY WITH
4 OTHER TELECOMMUNICATIONS FRANCHISE GRANTEEES:
5 *PROVIDED*, THAT IN THE INTERIM, THE GRANTEE SHALL BE
6 LIABLE TO PAY THE FINE OF FIVE HUNDRED PESOS (P500.00)
7 PER WORKING DAY OF NONCOMPLIANCE. THE FINE SHALL
8 BE COLLECTED BY THE NTC FROM THE DELINQUENT
9 FRANCHISE GRANTEE SEPARATE FROM THE REPORTORIAL
10 PENALTIES IMPOSED BY THE NTC AND THE SAME SHALL BE
11 REMITTED TO THE NATIONAL TREASURY.

12 SEC. [16] 20. *Equality Clause.* – [Except for taxes and customs
13 duties,] any advantage, favor, privilege, exemption, or immunity granted
14 under existing franchises, or which may hereafter be granted [for radio and/or
15 television broadcasting,] upon prior review and approval of Congress, shall
16 become part of this franchise and shall be accorded immediately and
17 unconditionally to the herein grantee: *Provided*, That the foregoing shall
18 neither apply to nor affect the provisions of [a broadcasting franchise
19 pertaining to the term, the type of service, or the territorial coverage of the
20 franchise.] TELECOMMUNICATIONS FRANCHISES CONCERNING
21 TERRITORY COVERED BY THE FRANCHISE, THE LIFE SPAN
22 OF THE FRANCHISE OR THE TYPE OF SERVICE AUTHORIZED
23 BY THE FRANCHISE.

24 SEC. [17] 21. *Repealability and Nonexclusivity Clause.* – This franchise
25 shall be subject to amendment, alteration, or repeal by the Congress of the

1 Philippines when the public interest so requires and shall not be interpreted as
2 an exclusive grant of the privilege herein provided for.

3 SEC. [18] 22. *Separability Clause.* – If any of the sections or
4 provisions of this Act is held invalid, all other provisions not affected thereby
5 shall remain valid.

6 SEC. [19] 23. *Repealing Clause.* – All laws, decrees, executive orders,
7 rules and regulations, or any part or provision thereof which are not consistent
8 with this Act are hereby repealed, amended, or modified accordingly.

9 SEC. [20] 24. *Effectivity.* – This Act shall take effect fifteen (15) days
10 after its publication in the *Official Gazette* or in a newspaper of general
11 circulation.

Approved,

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