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SENATE

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COMMITTEE REPORT NO. 299

Submitted by the Committee on Public Services on MAR 19 2018

Re: House Bill no. 5559

Recommending its approval with amendments.

Sponsor: Senator Grace Poe

MR. PRESIDENT:

The Committee on Public Services to which was referred House Bill No. 5559 introduced by Representatives Lobregat, Alvarez (F), and Marcoleta, entitled:

**"AN
ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS
THE FRANCHISE GRANTED TO ERMITA ELECTRONICS INCORPORATED,
PRESENTLY KNOWN AS G. TELECOMS, INC., AMENDING FOR
THE PURPOSE REPUBLIC ACT NO. 8196, ENTITLED: AN ACT GRANTING
THE ERMITA ELECTRONICS, INCORPORATED, A FRANCHISE
TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN AND
OPERATE RADIO COMMUNICATIONS SYSTEMS IN THE PHILIPPINES."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H.B. No. 5559 be approved with the following amendments:

1. On page 5 after line 17 insert new provisions that shall read as follows, and renumber the succeeding sections accordingly:

"SEC. 13. TAX PROVISIONS. - THE GRANTEE ITS SUCCESSORS OR ASSIGNEES, SHALL BE LIABLE TO PAY THE SAME TAXES ON THEIR REAL ESTATE, BUILDINGS AND PERSONAL PROPERTY, EXCLUSIVE OF THIS FRANCHISE, AS OTHER PERSONS OR CORPORATIONS WHICH ARE NOW OR THEREAFTER MAY BE ACQUIRED BY LAW TO PAY, EXCEPT RADIO TELECOMMUNICATIONS AND ELECTRONIC COMMUNICATIONS EQUIPMENT, MACHINERY, AND SPARE PARTS NEEDED IN THE CONNECTION WITH THE BUSINESS OF THE GRANTEE WHICH SHALL BE EXEMPT FROM CUSTOMS DUTIES, TARIFFS AND OTHER TAXES, AS WELL AS THOSE DECLARED EXEMPT IN THIS SECTION. IN ADDITION THERETO, THE GRANTEE, ITS SUCCESSORS, OR ASSIGNEES, SHALL PAY A VALUE-ADDED TAX ON ALL GROSS RECEIPTS OF THE BUSINESS TRANSACTED UNDER THIS FRANCHISE BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, IN THE PHILIPPINES IN LIEU OF ANY AND ALL, TAXES OF ANY KIND, NATURE, OR DESCRIPTION LEVIED, ESTABLISHED, OR COLLECTED BY AN AUTHORITY WHATSOEVER INCLUDING, BUT NOT LIMITED TO, CITY, MUNICIPAL PROVINCIAL, OR NATIONAL, FROM WHICH THE GRANTEE IS HEREBY EXPRESSLY EXEMPTED EFFECTIVE FROM THE DATE OF THE EFFECTIVITY OF

THIS ACT: PROVIDED, THAT GRANTEE ITS SUCCESSORS OR ASSIGNEES, SHALL CONTINUE TO BE LIABLE FOR INCOME TAXES PAYABLE UNDER TITLE II OF THE NATIONAL INTERNAL REVENUE CODE PURSUANT TO SECTION 2 OF THE EXECUTIVE ORDER NO. 72, UNLESS THE LATTER ENACTMENT IS AMENDED OR REPEALED, IN WHICH CASE AMENDMENT OR REPEAL SHALL BE APPLICABLE THERETO."

"SEC. 14. COMMITMENT TO PROVIDE AND PROMOTE THE CREATION OF EMPLOYMENT OPPORTUNITIES. - THE GRANTEE SHALL CREATE EMPLOYMENT OPPORTUNITIES AND SHALL ALLOW ON-THE-JOB TRAININGS IN THEIR FRANCHISE OPERATION. PROVIDED, THAT PRIORITY SHALL BE ACCORDED TO THE RESIDENTS IN AREA WHERE THEIR PRINCIPAL OFFICE IS LOCATED. PROVIDED, FURTHER, THAT THE GRANTEE SHALL FOLLOW THE APPLICABLE LABOR STANDARDS AND ALLOWANCE ENTITLEMENT UNDER EXISTING LABOR LAWS, RULES AND REGULATIONS AND SIMILAR ISSUANCES, PROVIDED FINALLY, THAT THE EMPLOYMENT OPPORTUNITIES OR JOBS CREATED SHALL BE REFLECTED IN THE GENERAL INFORMATION SHEET (GIS) TO BE SUBMITTED TO SECURITIES AND EXCHANGE COMMISSION ANNUALLY."

"SEC. 15. MOBILE NUMBER PORTABILITY. - THE GRANTEE SHALL PROVIDE MOBILE NUMBER PORTABILITY (MNP). IT SHALL SET UP A MECHANISM FOR THE PURPOSE OF IMPLEMENTING MNP. IT SHALL INTERCONNECT DIRECTLY OR INDIRECTLY WITH THE INFRASTRUCTURE, FACILITIES, SYSTEMS, OR EQUIPMET OF OTHER TELECOMMUNICATIONS FRANCHISES GRANTEES. IT SHALL NOT INSTALL NETWORK FEATURES, FUNCTIONS OR CAPABILITIEWS THAT WILL IMPEDE THE IMPLEMENTATION OF A NATIONWIDE MNP SYSTEM. THE NTC SHALL ISSUE RULES AND REGULATIONS FOR THIS PURPOSE, THE EFFECTIVITY OF WHICH SHALL COMMENCE UPON APPLICABILITY WITH OTHER TELECOMMUNICATIONS FRANCHISE GRANTEES."; and

2. On page 7, line 18, Section 11, delete the title "Fine" and in lieu thereof replace with the words "**PENALTY CLAUSE**"; Likewise, on same page, line 19 after the word "fine" insert the phrase "**IN THE AMOUNT OF ONE MILLION PESOS (P1,000,000.00) PER WORKING DAY OF NONCOMPLIANCE, THE EFFECTIVITY OF WHICH SHALL COMMENCE UPON APPLICABILITY WITH OTHER TELECOMMUNICATIONS FRANCHISE GRANTEES: PROVIDED, THAT IN THE INTERIM, THE GRANTEE SHALL BE LIABLE TO PAY THE FINE of five hundred pesos (P500.00) per working day of noncompliance.**";
3. On page 7, line 22, after the word "penalties", delete the words "it shall"; and after the word "IMPOSE" add letter "**d**" and insert the phrase "**BY THE NTC AND THE SAME SHALL BE REMITTED TO THE NATIONAL TREASURY.**"; and
4. The succeeding sections shall be renumbered accordingly.

RESPECTFULLY SUBMITTED:



GRACE POE
Chairperson
Committee on Public Services



JOSEPH VICTOR G. EJERCITO
Vice-Chairperson
Committee on Public Services

FRANCIS "Chiz" G. ESCUDERO
Vice-Chairperson
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HON. AQUILINO "Koko" PIMENTEL III
President
Senate of the Philippines

CONGRESS OF THE PHILIPPINES
SEVENTEENTH CONGRESS
First Regular Session

}

HOUSE OF REPRESENTATIVES

H. No. 5559

BY REPRESENTATIVES LOBREGAT, ALVAREZ (F.) AND MARCOLETA, PER
COMMITTEE REPORT NO. 210

AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25)
YEARS THE FRANCHISE GRANTED TO ERMITA
ELECTRONICS INCORPORATED, PRESENTLY KNOWN AS
G. TELECOMS, INC., AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 8196, ENTITLED "AN ACT
GRANTING THE ERMITA ELECTRONICS, INCORPORATED,
A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
MAINTAIN AND OPERATE RADIO COMMUNICATIONS
SYSTEMS IN THE PHILIPPINES"

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 SECTION I. Section I of Republic Act No. 8196 is hereby amended to
2 read as follows:

3 "SECTION I. *Nature and Scope of Franchise.* — Subject to
4 the provisions of the Constitution and applicable laws, rules and
5 regulations ON PUBLIC TELECOMMUNICATIONS, [there is hereby]
6 THE FRANCHISE granted to Ermita Electronics, Incorporated,
7 PRESENTLY KNOWN AS G. TELECOMS, INC., hereunder referred to
8 as the grantee, its successors or [assigns] ASSIGNEES UNDER
9 REPUBLIC ACT NO. 8196, [a franchise] to construct, establish,

1 install, maintain, and operate for commercial purposes and
2 in the public interest. IN THE PHILIPPINES AND BETWEEN
3 THE PHILIPPINES AND OTHER COUNTRIES AND TERRITORIES,
4 [radio stations for the reception and transmission of messages
5 in the foreign and domestic public fixed point-to-point, public
6 base, aeronautical, and land mobile and including coastal
7 marine service with the corresponding relay stations for
8 the reception and transmission of wireless messages on
9 radiotelegraph and/or radiotelephone, radioteletype, radiophoto,
10 facsimile, advertisements, and such other types of emission
11 from or to foreign countries and within the Philippines and
12 with vessels at sea and aircrafts over the air, irrespective of
13 whether such vessels and aircrafts are within or without the
14 Philippines.] WIRE AND/OR WIRELESS TELECOMMUNICATIONS
15 SYSTEMS INCLUDING INTERNATIONAL AND LOCAL EXCHANGE
16 CARRIER (LEC), INTERNATIONAL AND DOMESTIC GATEWAY
17 FACILITY, INTERNATIONAL AND DOMESTIC SUBMARINE
18 CABLE LANDING STATIONS, MOBILE CELLULAR, COOPER
19 SWITCHES, AND THEIR VALUE-ADDED SERVICES SUCH
20 AS THE TRANSMISSION OF VOICE, DATA, FACSIMILE, CONTROL
21 SIGNS, AUDIO AND VIDEO, INFORMATION SERVICES, AND ALL
22 OTHER TELECOMMUNICATIONS SYSTEMS TECHNOLOGIES
23 AS ARE AT PRESENT AVAILABLE OR WILL BE MADE AVAILABLE
24 THROUGH TECHNOLOGICAL ADVANCES OR INNOVATIONS
25 IN THE FUTURE; AND/OR CONSTRUCT, ACQUIRE, LEASE AND
26 OPERATE, OR MANAGE TRANSMITTING AND RECEIVING
27 STATIONS, LINES, CABLES, OR SYSTEMS AS ARE CONVENIENT
28 OR ESSENTIAL TO EFFICIENTLY CARRY OUT THE PURPOSE

1 OR CHANGED BY THE SAID GRANTEE, ITS SUCCESSORS OR
 2 ASSIGNEES, THEN THE DPWH OR THE LGU CONCERNED SHALL
 3 HAVE THE RIGHT TO HAVE THE SAME REPAIRED AND PLACED IN
 4 GOOD ORDER AND CONDITION, AND CHARGE THE GRANTEE, ITS
 5 SUCCESSORS OR ASSIGNEES, AT DOUBLE THE AMOUNT OF THE
 6 COSTS AND EXPENSES FOR SUCH REPAIR OR REPLACEMENT."

7 SEC. 3. All sections are to be renumbered accordingly.

8 SEC. 4. Section 7 of Republic Act No. 8196 is hereby amended to read
 9 as follows:

10 "SEC. [7]8. *Term of Franchise.* This franchise shall be
 11 for a term of twenty-five (25) years from the date of effectivity of
 12 this Act, unless sooner revoked or cancelled. This franchise shall
 13 be deemed *ipso facto* revoked, in the event the grantee fails to
 14 OPERATE CONTINUOUSLY FOR TWO (2) YEARS, {comply with any
 15 of the following conditions:

16 "(a) Commence operations within three (3) years from the
 17 approval of its permit by the National Telecommunications
 18 Commission;

19 "(b) Operate continuously for two (2) years; and

20 "(c) Commence operations within five (5) years from the
 21 effectivity of this Act.]"

22 SEC. 5. Section 8 of Republic Act No. 8196 is hereby amended to read
 23 as follows:

24 "SEC. [8]9. *Acceptance [and Compliance] OF FRANCHISE*
 25 Acceptance OF THE TERMS of this franchise shall be given in
 26 writing TO THE CONGRESS OF THE PHILIPPINES, THROUGH THE
 27 COMMITTEE ON LEGISLATIVE FRANCHISES OF THE HOUSE OF
 28 REPRESENTATIVES AND THE COMMITTEE ON PUBLIC SERVICES

1 OF THE SENATE, within sixty (60) days [after] FROM THE
 2 effectivity of this Act. Upon giving such acceptance, the grantee
 3 shall exercise the privileges granted under this Act
 4 Nonacceptance shall render the franchise void.

5 SEC. 6. Section 10 of Republic Act No. 8196 is hereby repealed. ✓

6 SEC. 7. A new section is hereby inserted after Section 8 of Republic
 7 Act No. 8196 to read as follows:

8 "SEC. ~~11~~¹¹ *RIGHT OF INTERCONNECTION.* — THE
 9 GRANTEE IS HEREBY AUTHORIZED TO CONNECT OR DEMAND
 10 CONNECTION OF ITS TELECOMMUNICATIONS SYSTEMS TO OTHER
 11 TELECOMMUNICATIONS SYSTEMS INSTALLED, OPERATED, AND
 12 MAINTAINED BY ANY OTHER DULY AUTHORIZED PERSON OR
 13 ENTITY IN THE PHILIPPINES FOR THE PURPOSE OF PROVIDING
 14 EXTENDED AND IMPROVED TELECOMMUNICATIONS SERVICES TO
 15 THE PUBLIC, UNDER THE TERMS AND CONDITIONS MUTUALLY
 16 AGREED UPON BY THE PARTIES CONCERNED. THIS RIGHT SHALL
 17 BE SUBJECT TO THE REVIEW AND MODIFICATION OF THE NTC."

18 SEC. ~~14~~¹⁴ Section 14 of Republic Act No. 8196 is hereby amended to
 19 read as follows: 12
13

20 "SEC. ~~14~~¹⁴ *Sale, Lease, Transfer, Usufruct, [etc.] OR*
 21 *ASSIGNMENT OF FRANCHISE.* — The grantee shall not SELL, lease,
 22 transfer, grant the usufruct of, [sell] nor assign this franchise or the
 23 rights and privileges acquired thereunder to any person, firm,
 24 company, corporation or other commercial or legal entity, nor
 25 merge with any OTHER corporation or entity, nor shall TRANSFER
 26 the controlling interest of the grantee [be transferred], whether
 27 as a whole or in parts, and whether simultaneously or
 28 contemporaneously, to any [such] person, firm, company,

1 corporation or entity without the prior approval of the Congress of
 2 the Philippines[.]: *PROVIDED, THAT CONGRESS SHALL BE*
 3 *INFORMED OF ANY SALE, LEASE, TRANSFER, GRANT OF*
 4 *USUFRUCT, OR ASSIGNMENT OF FRANCHISE OR THE RIGHTS AND*
 5 *PRIVILEGES ACQUIRED THEREUNDER, OR OF THE MERGER, OR*
 6 *TRANSFER OF CONTROLLING INTEREST OF THE GRANTEE.*
 7 *WITHIN SIXTY (60) DAYS AFTER THE COMPLETION OF SAID*
 8 *TRANSACTION: PROVIDED, FURTHER, THAT FAILURE TO REPORT*
 9 *TO CONGRESS SUCH CHANGE OF OWNERSHIP SHALL RENDER THE*
 10 *FRANCHISE IPSO FACTO REVOKED: PROVIDED, FINALLY, THAT*
 11 *[A]ny person or entity to which this franchise is sold, transferred,*
 12 *or assigned, shall be subject to the same conditions, terms,*
 13 *restrictions, and limitations of this Act."*

14 SEC. 2. Section 16 of Republic Act No. 8196 is hereby amended to
 15 read as follows:

16 "SEC. [16] - *Equality Clause.* - If any subsequent →
 17 franchise for telecommunication service of the same nature is
 18 awarded or granted by the Congress of the Philippines with terms,
 19 privileges and conditions more favorable and beneficial than those
 20 contained in this Act, then the same privileges or advantages shall,
 21 *ipso facto*, accrue to the herein grantee and be deemed part of
 22 this Act.] EXCEPT FOR TAXES AND CUSTOMS DUTIES, ANY
 23 ADVANTAGE, FAVOR, PRIVILEGE, EXEMPTION, OR IMMUNITY
 24 GRANTED UNDER OTHER EXISTING FRANCHISES, OR WHICH MAY
 25 HEREAFTER BE GRANTED, UPON PRIOR REVIEW AND APPROVAL
 26 OF CONGRESS, SHALL BECOME PART OF THIS FRANCHISE AND
 27 SHALL BE ACCORDED IMMEDIATELY AND UNCONDITIONALLY
 28 TO THE HEREIN GRANTEE: *PROVIDED, THAT THE FOREGOING*

1 SHALL NEITHER APPLY TO NOR AFFECT THE PROVISIONS OF
2 TELECOMMUNICATIONS FRANCHISES CONCERNING TERRITORY,
3 THE TERM, OR THE TYPE OF SERVICE AUTHORIZED BY THE
4 FRANCHISE."

5 SEC. 11¹³ Section 19 of Republic Act No. 8196 is hereby amended to
6 read as follows:

7 "SEC. 19²⁰ *Reportorial Requirement.* - The grantee
8 shall submit an annual report to the Congress of the Philippines,
9 THROUGH THE COMMITTEE ON LEGISLATIVE FRANCHISES
10 OF THE HOUSE OF REPRESENTATIVES AND THE COMMITTEE
11 ON PUBLIC SERVICES OF THE SENATE, on its compliance with the
12 terms and conditions of the franchise and on its operations [within
13 sixty (60) days from the end of every year.] ON OR BEFORE
14 APRIL 30 OF EVERY YEAR DURING THE TERM OF ITS FRANCHISE.
15 THE REPORTORIAL COMPLIANCE CERTIFICATE ISSUED BY
16 CONGRESS SHALL BE REQUIRED BEFORE ANY APPLICATION FOR
17 PERMIT OR CERTIFICATE IS ACCEPTED BY THE NTC."

18 "SEC. 11¹⁶ *Fine.*" Failure of the grantee to submit the requisite annual
19 report to Congress shall be penalized with a fine of five hundred pesos
20 (P500.00) per working day of noncompliance. The fine shall be collected by
21 the NTC from the delinquent franchise grantee separate from the reportorial
22 penalties it shall impose.

23 SEC. 12. *Adoption of Provisions Not Inconsistent with this Act.* - All
24 other provisions of Republic Act No. 8196, which are not inconsistent with the
25 provisions of this Act, shall continue to be in full force and effect.

26 SEC. 13. *Separability Clause.* - If any of the sections or provisions
27 of this Act is held invalid, all other provisions not affected thereby shall
28 remain valid.

21
1 SEC. 14. *Repeatability and Exclusivity Clause.* - This franchise is
2 granted with the understanding and upon condition that it shall be subject to
3 amendment, alteration or repeal by the Congress of the Philippines when the
4 public interest and common good so require and shall not be interpreted as an
5 exclusive grant of the privilege herein provided for.

6 SEC. 15. *Repealing Clause.* - All laws, decrees, executive orders,
7 rules and regulations or parts or provisions thereof which are not consistent
8 with this Act are hereby repealed, amended, or modified accordingly.

9 SEC. 16. *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.