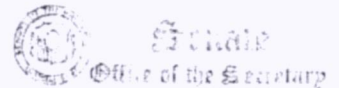


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



SENATE
S.B. No. 1993

'18 SEP 11 / A9:33

Introduced by SENATOR VICENTE C. SOTTO III

AN ACT
RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE
GRANTED TO ENRIQUE M. OROZCO AND SONS INC. UNDER REPUBLIC
ACT NO. 3229

EXPLANATORY NOTE

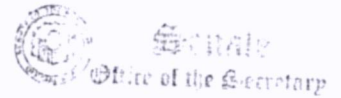
This bill seeks to renew the franchise of Enrique M. Orozco and Sons, Inc. granted under Republic Act Number Thirty-Two Hundred Twenty-Nine (RA 3229), as amended, entitled "An Act Granting Enrique M. Orozco and Sons, Inc., Residing at Number Four Hundred Forty-One-C, Isabel, Sampaloc, Manila, Philippines, A Temporary Permit to Construct, Install, Maintain and Operate Public Radiotelephone and Radiotelegraph Coastal Stations, and Public Fixed and Public Based and Land Mobile Stations for the Reception and Transmission of Radiotelephone and Radiotelegraph Communications within the Philippines" to another twenty-five years from the date of effectivity of this Act.

Enrique M. Orozco and Sons, Inc. is one of the pioneers in telecommunications industry in the Philippines. They have been in operation since 1960's. Their main core of business is ship-to-shore radio communication service that provides communication link between seafarers in the sea with their families and loved ones in the land.

Despite the advancement of technology in the telecommunication industry, there are still a lot of people who use the radio communication service provided by Enrique M. Orozco and Sons, Inc. since it is cheaper as compared to satellite telephone system being used by other seamen.

In view of the foregoing, approval of this bill is earnestly requested.


VICENTE C. SOTTO III



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RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE
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ACT NO. 3229

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 provisions
2 of the 1987 Philippine Constitution and applicable laws, rules and
3 regulations, the franchise granted to the Enrique M. Orozco and Sons Inc.,
4 hereunder referred to as the grantee, its successors or assignees, under
5 Republic Act No. 3229, to construct, install, establish, operate, and
6 maintain for commercial purposes and in the public interest, wire and/or
7 wireless telecommunications systems including mobile cellular, paging, fiber
8 optics, satellite transmit and receive systems, switches, and their value-
9 added services such as transmission of voice, data, facsimile, control signs,
10 audio and video, information services, and all other telecommunications
11 systems technologies as are at present available or will be made available
12 through technological advances or innovations in the future; and/or
13 construct, acquire, lease, and operate, or manage transmitting and receiving
14 stations, lines, cables or systems in the Philippines, for domestic and
15 international communications, is hereby renewed for another twenty-five
16 (25) years from the effectivity of this Act.

17 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or
18 facilities of the grantee shall be constructed and operated in a manner as
19 will, at most, result only in the minimum interference on the wavelengths or
20 frequencies of existing stations or other stations which may be established

1 by law, without in any way diminishing its own right to use its selected
2 wavelengths or frequencies and the quality of transmission or reception
3 thereon as should maximize rendition of the grantee's services and/or
4 availability thereof.

5 SEC.3. *Authority of the National Telecommunications Commission (NTC).*

6 – The grantee shall secure from the NTC a Certificate of Public Convenience
7 and Necessity or the appropriate permits and licenses for the construction,
8 installation and operation of its telecommunications systems/facilities. In
9 issuing the certificate, the NTC shall have the power to impose such
10 conditions relative to the construction, operation, maintenance, or service
11 level of the telecommunications system. The NTC shall have the authority to
12 regulate the construction and operation of its telecommunications systems.
13 The grantee shall not use any frequency in the radio spectrum without
14 authorization from the NTC. Such certificate shall state the areas covered
15 and the date the grantee shall commence the service. The NTC, however,
16 shall not unreasonably withhold or delay the grant of any such authority,
17 permits or licenses.

18 SEC. 4. *Excavation and Restoration Works.* – For the purpose of
19 erecting and maintaining poles or other supports for said wires or other
20 conductors for the purpose of laying and maintaining underground wires,
21 cables or other conductors, it shall be lawful for the grantee, its successors
22 or assigns, with the prior approval of the Department of Public Works and
23 Highways (DPWH) or the local government unit concerned, as may be
24 appropriate, to make excavations or lay conduits in any of the public places,
25 highways, streets, lanes, alleys, avenues, sidewalks or bridges of said
26 province, cities and/or municipalities: *Provided, however,* That a public
27 place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed,
28 altered or changed by reason of erection of poles or other supports or the
29 underground laying of wires, other conductors or conduits, shall be repaired
30 and replaced in workmanlike manner by the grantee, its successors or

1 assignees, in accordance with the standards set by DPWH or the LGU
2 concerned. Should the grantee, its successors assignees, after the ten (10)
3 day notice from the said authority, fail, refuse or neglect to repair or replace
4 any part of public place, road, highway, street, lane, alley, avenue, sidewalk
5 or bridge altered, changed or disturbed by the grantee, its successors or
6 assignees, then the DPWH or the LGU concerned shall have the right to
7 have the same repaired and placed in good order and condition, at double
8 expense to be charged against the grantee, its successors or assignees.

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

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

28 The grantee shall operate and maintain all its stations, lines, cables,
29 systems, and equipment for the transmission and reception of messages,

1 signals and pulses in a satisfactory manner at all times, and as far as
2 economical and practicable, modify, improve or change such stations, lines,
3 cables, systems, and equipment to keep abreast with the advances in
4 science and technology.

5 SEC. 6. *Rates for Services.* – The charges and rates for
6 telecommunications services of the grantee, except the rates and charges on
7 those that may hereafter be declared or considered as non-regulated
8 services, whether flat rates or measured rates or variation thereof, shall be
9 subject to the approval of the NTC or its legal successor. The rates to be
10 charged by the grantee shall be unbundled, separable and distinct among
11 the services offered and shall be determined in such a manner that
12 regulated services do not subsidize the unregulated ones.

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

23 The radio spectrum is a finite resource that is part of the national
24 patrimony and the use thereof is a privilege conferred upon the grantee by
25 the State and may be withdrawn anytime after due process.

26 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period
27 of twenty-five (25) years from the date of effectivity of this Act, unless sooner

1 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the
2 grantee fails to operate continuously for two (2) years.

3 SEC. 9. *Acceptance and Compliance.* – Acceptance of this franchise shall
4 be given in writing to the Congress of the Philippines, through the
5 Committee on Legislative Franchises of the House of Representatives and
6 the Committee on Public Services of the Senate within sixty (60) days from
7 the effectivity of this Act. Upon giving such acceptance, the grantee shall
8 exercise the privileges granted under this Act. Non-acceptance shall render
9 the franchise void.

10 SEC. 10. *Right of Interconnection.* – The grantee is hereby authorized to
11 connect or demand connection of its telecommunications systems to other
12 telecommunications systems installed, operated and maintained by any
13 other duly authorized person or entity in the Philippines for the purpose of
14 providing extended and improved telecommunications services to the public,
15 under such terms and conditions mutually agreed upon by the parties
16 concerned, this right shall be subject to the review and modification of the
17 NTC.

18 SEC. 11. *Gross Receipts.* - The grantee, its successors or assignees,
19 shall keep a separate account of the gross receipts of the business
20 transacted by it and shall furnish the Commission on Audit (COA) and the
21 National Treasury a copy of such account not later than the thirty-first
22 (31st) day of January of each year for the preceding twelve (12) months.

23 SEC. 12. *Books and Accounts.* – The books and accounts of the
24 grantee, its successor or assignees, shall always be open to the inspection of
25 the Commission on Audit (COA) and its duly-authorized representatives. It
26 shall be the duty of the grantee to submit to the COA two (2) copies of the
27 quarterly reports on the gross receipts, the net profits and the general
28 condition of the business.

1 SEC. 13. *Warranty in Favor of the National and Local Governments.* -

2 The grantee shall hold the national, provincial, city and municipal
3 governments of the Philippines free from all claims, accounts, demands or
4 actions arising out of accidents or injuries, whether to property or to
5 persons, caused by the construction or operation of the stations,
6 transmitters, facilities and equipment of the grantee.

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
9 this franchise or the rights and privileges acquired thereunder to any
10 person, firm, company, corporation or other commercial or legal entity, nor
11 merge with any other corporation or entity, nor shall transfer the controlling
12 interest of the grantee, whether as a whole or in parts, and whether
13 simultaneously or contemporaneously, to any person, firm, company,
14 corporation or entity without the prior approval of the Congress of the
15 Philippines: *Provided*, That Congress shall be informed of any sale, lease,
16 transfer, grant of usufruct, or assignment of franchise or the rights or
17 privileges acquired within sixty (60) days after the completion of said
18 transaction: *Provided, further*, That failure to report to Congress such
19 change of ownership shall render the franchise *ipso facto* revoked: *Provided*,
20 *finally*, That any person or entity to which this franchise is sold, transferred
21 or assigned, shall be subject to the same conditions, terms, restrictions and
22 limitations of this Act.

23 SEC. 15. *Dispersal of Ownership.* - In accordance with the

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

1 operating public utilities must be implemented. Noncompliance therewith
2 shall render the franchise *ipso facto* revoked.

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

11 SEC. 17. *Penalty Clause.* – Failure of the grantee to submit the
12 requisite annual report to Congress shall be penalized with a fine in the
13 amount of Five Hundred Pesos (P500.00) per working day of noncompliance.
14 The fine shall be collected by the NTC from the delinquent franchise grantee
15 separate from the reportorial penalties imposed by NTC.

16 SEC. 18. *Equality Clause.* - Any advantage, favor, privilege, exemption,
17 or immunity granted under other existing franchise, or which may hereafter
18 be granted, upon prior review and approval of Congress, shall become part
19 of this franchise and shall be accorded immediately and unconditionally to
20 the herein grantee: *Provided*, That the foregoing shall neither apply to nor
21 affect provisions of telecommunications franchises concerning territory
22 covered by the franchise, the life span of the franchise or the type of service
23 authorized by the franchise.

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

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

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

Approved,