

(AS AMENDED BY THE SENATE)

CONGRESS OF THE PHILIPPINES  
SEVENTEENTH CONGRESS  
*Third Regular Session*

}

HOUSE OF REPRESENTATIVES

H. No. 8667

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BY REPRESENTATIVES VILLANUEVA, CUA, VELASCO, VILLAFUERTE,  
HERNANDEZ (F.), ALVAREZ (F.), SY-ALVARADO,  
CALIXTO-RUBIANO AND NIETO, PER COMMITTEE REPORT  
No. 968

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AN ACT GRANTING THE BASES CONVERSION AND  
DEVELOPMENT AUTHORITY A FRANCHISE TO  
CONSTRUCT, INSTALL, ESTABLISH, OPERATE, LEASE,  
OWN, MANAGE AND MAINTAIN DISTRIBUTION  
SYSTEMS FOR THE CONVEYANCE OF ELECTRIC  
POWER TO END USERS [ANYWHERE] IN [ALL]  
SELECTED AREAS COVERED UNDER REPUBLIC ACT  
NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE  
"BASES CONVERSION AND DEVELOPMENT ACT OF  
1992" [EXCLUDING AREAS UNDER THE SUBIC SPECIAL  
FREEPORT AND ECONOMIC ZONE]

*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  
3 regulations, there is hereby granted to the Bases Conversion and  
4 Development Authority (BCDA), a government entity created  
5 pursuant to Republic Act No. 7227, as amended, otherwise known  
6 as the "Bases Conversion and Development Act of 1992", and

1 hereunder referred to as the grantee, its successors or assignees, a  
2 franchise to construct, install, establish, operate, lease, own,  
3 manage and maintain for commercial purposes and in the public  
4 interest, distribution systems for the conveyance of electric power to  
5 end users in [all] SELECTED areas covered by the grantee  
6 pursuant to Republic Act No. 7227, as amended[.]. [excluding areas  
7 under the Subic] [Freeport and Economic Zone, formerly known as  
8 the Subic Special Economic Zone.]

9 SPECIFICALLY, THE AREAS COVERED BY THIS  
10 FRANCHISE ARE THE FOLLOWING:

11 (A) JOHN HAY STATION (BAGUIO CITY);

12 (B) WALLACE AIR STATION (PORO POINT, LA  
13 UNION);

14 (C) O' DONNELL TRANSMITTER STATION (CAPAS,  
15 TARLAC);

16 (D) CAPAS RELAY STATION (CAPAS, TARLAC); AND

17 (E) PORTION OF THE CLARK SPECIAL ECONOMIC  
18 ZONE (CSEZ) COVERING THE NEW CLARK CITY  
19 (TARLAC);”

20 SEC. 2. *Manner of Operation of Facilities.* – All electric  
21 distribution facilities, lines, and systems for electric services owned,  
22 maintained, operated, or managed by the grantee, its successors or  
23 assignees, shall be operated and maintained at all times in the best  
24 manner. It shall be the duty of the grantee, its successors or  
25 assignees, whenever required to do so by the Energy Regulatory  
26 Commission (ERC) or its legal successor, or the Department of  
27 Energy (DOE) or its legal successor, or any other government  
28 agency concerned, to modify, improve and change such facilities or  
29 systems in such manner and to such extent as the progress in

1 science and improvements in the electric power service industry  
2 may render reasonable and proper.

3 Whenever practicable and for purposes of maintaining order,  
4 safety and aesthetics along highways, roads, streets, alleys, or  
5 easements, the grantee may allow the use of its poles, facilities, or  
6 easements by interested parties upon reasonable compensation.  
7 The ERC shall resolve cases of dispute or disagreement between  
8 parties.

9 SEC. 3. *Authority of the Energy Regulatory Commission*  
10 *(ERC)*. - The grantee shall secure from the ERC the necessary  
11 certificate of public convenience and necessity and other appropriate  
12 permits and licenses for the construction and operation of its  
13 electric distribution system.

14 SEC. 4. *Excavation and Restoration Works*. - For the  
15 purpose of erecting and maintaining poles and other supports for  
16 wires or other conductors for the laying and maintaining of  
17 underground wires, cables, pipes or other conductors, the grantee,  
18 its successors or assignees, is authorized to make excavations or lay  
19 conduits in any of the public places, roads, highways, streets, lanes,  
20 alleys, avenues, sidewalks, or bridges of said province, cities and/or  
21 municipalities, subject to prior approval of the Department of  
22 Public Works and Highways (DPWH) or the local government unit  
23 (LGU) concerned: *Provided, however,* That any public place,  
24 road, highway, street, lane, alley, avenue, sidewalk, or bridge  
25 disturbed, altered, or changed by reason of erection of poles or other  
26 supports or the underground laying of wires, other conductors or  
27 conduits, shall be repaired or replaced in workmanlike manner at  
28 the expense of the grantee, its successors or assignees, in  
29 accordance with the standards set by the DPWH or the LGU

1 concerned. Should the grantee, its successors or assignees, after the  
2 ten(10)-day notice from the said authority, fail, refuse, or neglect to  
3 repair or replace any part of a public place, road, highway, street,  
4 lane, alley, avenue, sidewalk, or bridge that has been disturbed,  
5 altered, or changed by the said grantee, its successors or assignees,  
6 then the DPWH or the LGU concerned shall have the right to have  
7 the same repaired or replaced in good order and condition and  
8 charge the grantee, its successors or assignees at double the amount  
9 of the cost and expenses for such repair or replacement.

10       SEC. 5. *Responsibility to the Public.* – The grantee shall  
11 supply electricity to its captive market in the urban and rural  
12 portions of its franchise area in the least costly manner. In the  
13 interest of the public good, as far as feasible and whenever required  
14 by the ERC, the grantee shall modify, improve, or change its  
15 facilities, poles, lines, systems, and equipment for the purpose of  
16 providing efficient and reliable service and reduced electricity costs.  
17 The grantee shall charge reasonable and just power rates for its  
18 services to all types of consumers within its franchise areas.

19       The grantee shall have the obligation to provide open and  
20 non-discriminatory access to its distribution system and services for  
21 any end user within its franchise area consistent with Republic Act  
22 No. 9136, otherwise known as the “Electric Power Industry Reform  
23 Act of 2001”. The grantee shall not engage in any activity that will  
24 constitute an abuse of market power such as unfair trade practices,  
25 monopolistic schemes, and other activities that will hinder  
26 competitiveness of businesses and industries.

27       The exercise of the rights granted herein shall not result to  
28 stranded assets and stranded contract costs of existing and

1 operating distribution utilities nor to unreasonable increases in  
2 costs to consumers.

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

7       The grantee shall identify and itemize in the statement of  
8 account it issues to end users the components of the retail rate  
9 charged pursuant to Republic Act No. 9136. Such rates charged by  
10 the grantee shall be made public and transparent. The grantee  
11 shall implement a lifeline rate to marginalized end users as  
12 mandated under Republic Act No. 9136.

13       SEC. 7. *Protection of Consumer Interests.* – The herein  
14 grantee shall establish a consumer desk that will handle consumer  
15 complaints and ensure adequate protection of consumer interests.  
16 The grantee shall act with dispatch on all complaints brought before  
17 it.

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

28       SEC. 9. *Right of Eminent Domain.* – Subject to the  
29 limitations and procedures prescribed by law, the grantee is

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

12 SEC. 10. *Term of Franchise.* - This franchise shall be in  
13 effect for a period of twenty-five (25) years from the date of the  
14 effectivity of this Act, unless sooner cancelled. This franchise shall  
15 be deemed *ipso facto* revoked in the event the grantee fails to  
16 comply with any of the following conditions:

17 (a) Commence operations within one (1) year from the  
18 approval of its operating permit by the ERC;

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

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

22 SEC. 11. *Renewal or Extension of Franchise.* - The grantee  
23 shall apply for the renewal or extension of its franchise five (5)  
24 years before its expiration date which shall be reckoned fifteen (15)  
25 days after the publication of the franchise in the *Official Gazette* or  
26 in a newspaper of general circulation.

27 SEC. 12. *Warranty in Favor of the National and Local*  
28 *Governments.* - The grantee shall hold the national, provincial,  
29 city, and municipal governments of the Philippines free from all

1 claims, liabilities, demands, or actions arising out of accidents that  
2 cause injury to persons and damage to properties, during the  
3 construction, installation, operation, and maintenance of the  
4 distribution system of the grantee.

5       SEC. 13. *Liability for Damages.* – The grantee shall be liable  
6 for any injury to persons and damage to property arising from or  
7 caused by any accident arising from any defective construction of  
8 any infrastructure built pursuant to the operation of its business  
9 under this franchise, or by any neglect or failure to keep its poles  
10 and wires in safe condition.

11       SEC. 14. *Sale, Lease, Transfer, Grant of Usufruct, or*  
12 *Assignment of Franchise.* – The grantee shall not sell, lease,  
13 transfer, grant the usufruct of, nor assign this franchise or the  
14 rights and privileges acquired thereunder to any person, firm,  
15 company, corporation, or other commercial or legal entity, nor  
16 merge with any other corporation or entity, nor shall transfer the  
17 controlling interest of the grantee, whether as a whole or in part,  
18 and whether simultaneously or contemporaneously, to any such  
19 person, firm, company, corporation or entity without the prior  
20 approval of the Congress of the Philippines[:]. [*Provided*, That the  
21 foregoing limitation shall not apply if the grantee shall transfer or  
22 assign this franchise or the rights and privileges acquired  
23 hereunder to its wholly-owned subsidiaries, and as contribution to  
24 joint ventures, of whatever nature and kind, with any entity, in  
25 accordance with applicable Constitutional provisions, laws, rules  
26 and regulations: *Provided, further*, That any person or entity to  
27 which this franchise is sold, transferred or assigned, shall be subject  
28 to the same conditions, terms, restrictions, and limitations of this  
29 Act.]

1           SEC. 15. *Commitment to Provide and Promote the Creation of*  
2 *Employment Opportunities.* – The grantee shall create employment  
3 opportunities and shall allow on-the-job trainings in their franchise  
4 operation: *Provided*, That priority shall be accorded to the residents  
5 in areas where any of its offices is located: *Provided, further*, That  
6 the grantee shall comply with the applicable labor standards and  
7 allowance entitlement under existing labor laws, rules and  
8 regulations and similar issuances: *Provided, finally*, That the  
9 employment opportunities or jobs created shall be reflected in the  
10 Government Corporation Information Sheet (GCIS) to be submitted  
11 to the Securities and Exchange Commission (SEC) annually.

12           SEC. 16. *Reportorial Requirement.* – During the term of its  
13 franchise, the grantee shall submit an annual report to the  
14 Congress of the Philippines, through the Committee on Legislative  
15 Franchises of the House of Representatives and the Committee on  
16 Public Services of the Senate, on its compliance with the terms and  
17 conditions of the franchise and on its operations on or before  
18 April 30 of the succeeding year.

19           The annual report shall include an update on the roll-out,  
20 development, operation and/or expansion of business; audited  
21 financial statements; latest GCIS officially submitted to the SEC (if  
22 applicable); certification of the ERC on the status of its permits and  
23 operations; and an update on the dispersal of ownership  
24 undertaking, if applicable.

25           A reportorial compliance certificate issued by Congress shall  
26 be required before any application for permit or certificate is  
27 accepted by the ERC.

28           SEC. 17. *Fine.* – Failure of the grantee to submit the  
29 requisite annual report to Congress shall be penalized by a fine of



1 Five hundred pesos (P500.00) per working day of noncompliance.  
2 The fine shall be collected by the ERC from the delinquent franchise  
3 grantee separate from the reportorial penalties imposed by the ERC  
4 and the same shall be remitted to the National Treasury.

5 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege,  
6 exemption, or immunity granted under existing franchises, or which  
7 may hereinafter be granted to power distribution franchises, upon  
8 prior review and approval of Congress, shall become part of this  
9 franchise and shall be accorded immediately and unconditionally to  
10 the herein grantee: *Provided, however,* That the foregoing shall  
11 neither apply to nor affect provisions concerning the territory  
12 covered, term, or type of service authorized by the franchise.

13 SEC. 19. *Applicability of Existing Laws.* – The grantee shall  
14 comply with and be subject to the provisions of Commonwealth Act  
15 No. 146, or the “Public Service Act”, as amended, and Republic Act  
16 No. 9136.

17 SEC. 20. *Repealability and Nonexclusivity Clause.* – This  
18 franchise shall be subject to amendment, alteration, or repeal by the  
19 Congress of the Philippines when the public interest so requires and  
20 shall not be interpreted as an exclusive grant of the privileges  
21 herein provided for.

22 SEC. 21. *Separability Clause.* – If any of the sections or  
23 provisions of this Act is held invalid, all other provisions not  
24 affected thereby shall remain valid.

25 SEC. 22. *Repealing Clause.* – All laws, decrees, orders,  
26 resolutions, instructions, and rules and regulations or parts thereof,  
27 which are inconsistent with this Act are hereby deemed repealed or  
28 modified accordingly.

1           SEC. 23. *Effectivity.* – This Act shall take effect fifteen (15)  
2 days after its publication in the *Official Gazette* or in a newspaper of  
3 general circulation.

Approved,

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