

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



Senate
Office of the Secretary

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SENATE

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COMMITTEE REPORT NO. 729

Submitted by the Committees on Public Services *and* Government Corporations and
Public Enterprises on MAY 28 2019.

RE: House Bill No. 8667

Recommending its approval with amendments.

Sponsor: Senator Grace Poe

MR. PRESIDENT:

The Senate Committees on Public Services; *and* Government Corporations and
Public Enterprises to which was referred **House Bill No. 8667**, introduced by
Representatives Villanueva, Cua, Velasco, Villafuerte, Hernandez (F.), Alvarez (F.), Sy-
Alvarado, Calixto-Rubiano and Nieto *entitled*:

"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 USER ANYWHERE IN ALL
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"**

have considered the same and have the honor to report it back to the Senate with the recommendation that it be approved with the following amendments:

1. On page 2, line 5, delete the word "all" and in lieu thereof insert the word **"SELECTED"**;
2. On the same page, line 6 after the word "amended", insert a period (.) and delete the comma (,) and the phrase "excluding areas under the Subic";
3. On the same page, delete lines 7 and 8, and in lieu thereof insert new paragraph which shall read as follows:

"SPECIFICALLY, THE AREAS COVERED BY THIS FRANCHISE ARE THE FOLLOWING:


- (A) JOHN HAY STATION (BAGUIO CITY);**
- (B) WALLACE AIR STATION (PORO POINT, LA UNION);**
- (C) O' DONNELL TRANSMITTER STATION (CAPAS, TARLAC);**
- (D) SAN MIGUEL NAVAL COMMUNICATIONS STATION (SAN ANTONIO, ZAMBALES);**
- (E) CAPAS RELAY STATION (CAPAS, TARLAC);**
- (F) MT. STA. RITA STATION (HERMOSA, BATAAN); AND**
- (G) PORTION OF THE CLARK SPECIAL ECONOMIC ZONE (CSEZ) COVERING THE NEW CLARK CITY (TARLAC)";**

4. On page 1, on the title of the bill delete the word "anywhere"; also delete the word "all" and in lieu thereof replace it with the word **"SELECTED"**;
5. On the same page, delete the last phrase of the title "excluding areas under the Subic Special Freeport and Economic Zone";
6. The title of the measure shall now read as follows:

**"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 USER IN SELECTED AREAS COVERED UNDER
REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS
THE "BASES CONVERSION AND DEVELOPMENT ACT OF 1992"**

Respectfully submitted:

Chairpersons



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Committee on Government Corporations
and Public Enterprises

Member, Committee on Public Services



GRACE POE
Chairperson
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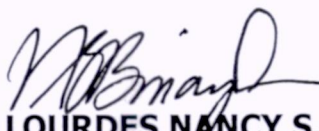
EMMANUEL "Manny" D. PACQUIAO

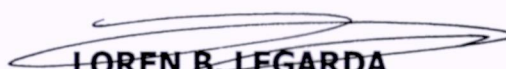
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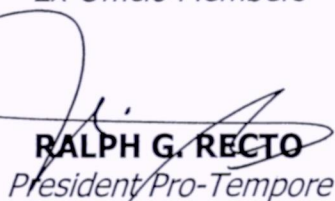

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Senate President



HOUSE OF REPRESENTATIVES

H. No. 8667

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

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 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 areas covered by the grantee pursuant to Republic
6 Act No. 7227, as amended, excluding areas under the Subic
7 Freeport and Economic Zone, formerly known as the Subic Special
8 Economic Zone.

9 SEC. 2. *Manner of Operation of Facilities.* - All electric
10 distribution facilities, lines, and systems for electric services owned,
11 maintained, operated, or managed by the grantee, its successors or
12 assignees, shall be operated and maintained at all times in the best
13 manner. It shall be the duty of the grantee, its successors or
14 assignees, whenever required to do so by the Energy Regulatory
15 Commission (ERC) or its legal successor, or the Department of
16 Energy (DOE) or its legal successor, or any other government
17 agency concerned, to modify, improve and change such facilities or
18 systems in such manner and to such extent as the progress in
19 science and improvements in the electric power service industry
20 may render reasonable and proper.

21 Whenever practicable and for purposes of maintaining order,
22 safety and aesthetics along highways, roads, streets, alleys, or
23 easements, the grantee may allow the use of its poles, facilities, or
24 easements by interested parties upon reasonable compensation.
25 The ERC shall resolve cases of dispute or disagreement between
26 parties.

27 SEC. 3. *Authority of the Energy Regulatory Commission*
28 *(ERC).* - The grantee shall secure from the ERC the necessary
29 certificate of public convenience and necessity and other appropriate

1 permits and licenses for the construction and operation of its
2 electric distribution system.

3 SEC. 4. *Excavation and Restoration Works.* – For the
4 purpose of erecting and maintaining poles and other supports for
5 wires or other conductors for the laying and maintaining of
6 underground wires, cables, pipes or other conductors, the grantee,
7 its successors or assignees, is authorized to make excavations or lay
8 conduits in any of the public places, roads, highways, streets, lanes,
9 alleys, avenues, sidewalks, or bridges of said province, cities and/or
10 municipalities, subject to prior approval of the Department of
11 Public Works and Highways (DPWH) or the local government unit
12 (LGU) concerned: *Provided, however,* That any public place,
13 road, highway, street, lane, alley, avenue, sidewalk, or bridge
14 disturbed, altered, or changed by reason of erection of poles or other
15 supports or the underground laying of wires, other conductors or
16 conduits, shall be repaired or replaced in workmanlike manner at
17 the expense of the grantee, its successors or assignees, in
18 accordance with the standards set by the DPWH or the LGU
19 concerned. Should the grantee, its successors or assignees, after the
20 ten(10)-day notice from the said authority, fail, refuse, or neglect to
21 repair or replace any part of a public place, road, highway, street,
22 lane, alley, avenue, sidewalk, or bridge that has been disturbed,
23 altered, or changed by the said grantee, its successors or assignees,
24 then the DPWH or the LGU concerned shall have the right to have
25 the same repaired or replaced in good order and condition and
26 charge the grantee, its successors or assignees at double the amount
27 of the cost and expenses for such repair or replacement.

28 SEC. 5. *Responsibility to the Public.* – The grantee shall
29 supply electricity to its captive market in the urban and rural

1 portions of its franchise area in the least costly manner. In the
2 interest of the public good, as far as feasible and whenever required
3 by the ERC, the grantee shall modify, improve, or change its
4 facilities, poles, lines, systems, and equipment for the purpose of
5 providing efficient and reliable service and reduced electricity costs.
6 The grantee shall charge reasonable and just power rates for its
7 services to all types of consumers within its franchise areas.

8 The grantee shall have the obligation to provide open and
9 non-discriminatory access to its distribution system and services for
10 any end user within its franchise area consistent with Republic Act
11 No. 9136, otherwise known as the "Electric Power Industry Reform
12 Act of 2001". The grantee shall not engage in any activity that will
13 constitute an abuse of market power such as unfair trade practices,
14 monopolistic schemes, and other activities that will hinder
15 competitiveness of businesses and industries.

16 The exercise of the rights granted herein shall not result to
17 stranded assets and stranded contract costs of existing and
18 operating distribution utilities nor to unreasonable increases in
19 costs to consumers.

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

24 The grantee shall identify and itemize in the statement of
25 account it issues to end users the components of the retail rate
26 charged pursuant to Republic Act No. 9136. Such rates charged by
27 the grantee shall be made public and transparent. The grantee
28 shall implement a lifeline rate to marginalized end users as
29 mandated under Republic Act No. 9136.

1 SEC. 7. *Protection of Consumer Interests.* - The herein
2 grantee shall establish a consumer desk that will handle consumer
3 complaints and ensure adequate protection of consumer interests.
4 The grantee shall act with dispatch on all complaints brought before
5 it.

6 SEC. 8. *Right of the Government.* - A special right is hereby
7 reserved to the President of the Philippines, in times of war,
8 rebellion, public peril, calamity, emergency, disaster or disturbance
9 of peace and order: to temporarily take over and operate the
10 distribution system of the grantee; to temporarily suspend the
11 operation of any station or facility in the interest of public safety,
12 security and public welfare; or to authorize the temporary use and
13 operation thereof by any agency of the government, upon due
14 compensation to the grantee, for the use of said distribution system
15 during the period when these shall be so operated.

16 SEC. 9. *Right of Eminent Domain.* - Subject to the
17 limitations and procedures prescribed by law, the grantee is
18 authorized to exercise the right of eminent domain insofar as it may
19 be reasonably necessary for the efficient maintenance and operation
20 of services. The grantee is authorized to install and maintain its
21 poles, wires, and other facilities over and across public property,
22 including streets, highways, forest reserves, and other similar
23 property of the Government of the Philippines, its branches, or any
24 of its instrumentalities. The grantee may acquire such private
25 property as is actually necessary for the realization of the purposes
26 for which this franchise is granted: *Provided*, That proper
27 condemnation proceedings shall have been instituted and just
28 compensation paid.

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

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

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

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

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

16 SEC. 12. *Warranty in Favor of the National and Local*
17 *Governments.* – The grantee shall hold the national, provincial,
18 city, and municipal governments of the Philippines free from all
19 claims, liabilities, demands, or actions arising out of accidents that
20 cause injury to persons and damage to properties, during the
21 construction, installation, operation, and maintenance of the
22 distribution system of the grantee.

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

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

20 SEC. 15. *Commitment to Provide and Promote the Creation of*
21 *Employment Opportunities.* – The grantee shall create employment
22 opportunities and shall allow on-the-job trainings in their franchise
23 operation: *Provided, That priority shall be accorded to the residents*
24 in areas where any of its offices is located: *Provided, further, That*
25 the grantee shall comply with the applicable labor standards and
26 allowance entitlement under existing labor laws, rules and
27 regulations and similar issuances: *Provided, finally, That the*
28 employment opportunities or jobs created shall be reflected in the

1 Government Corporation Information Sheet (GCIS) to be submitted
2 to the Securities and Exchange Commission (SEC) annually.

3 SEC. 16. *Reportorial Requirement.* - During the term of its
4 franchise, the grantee shall submit an annual report to the
5 Congress of the Philippines, through the Committee on Legislative
6 Franchises of the House of Representatives and the Committee on
7 Public Services of the Senate, on its compliance with the terms and
8 conditions of the franchise and on its operations on or before
9 April 30 of the succeeding year.

10 The annual report shall include an update on the roll-out,
11 development, operation and/or expansion of business; audited
12 financial statements; latest GCIS officially submitted to the SEC (if
13 applicable); certification of the ERC on the status of its permits and
14 operations; and an update on the dispersal of ownership
15 undertaking, if applicable.

16 A reportorial compliance certificate issued by Congress shall
17 be required before any application for permit or certificate is
18 accepted by the ERC.

19 SEC. 17. *Fine.* - Failure of the grantee to submit the
20 requisite annual report to Congress shall be penalized by a fine of
21 Five hundred pesos (P500.00) per working day of noncompliance.
22 The fine shall be collected by the ERC from the delinquent franchise
23 grantee separate from the reportorial penalties imposed by the ERC
24 and the same shall be remitted to the National Treasury.

25 SEC. 18. *Equality Clause.* - Any advantage, favor, privilege,
26 exemption, or immunity granted under existing franchises, or which
27 may hereinafter be granted to power distribution franchises, upon
28 prior review and approval of Congress, shall become part of this
29 franchise and shall be accorded immediately and unconditionally to

1 the herein grantee: *Provided, however,* That the foregoing shall
2 neither apply to nor affect provisions concerning the territory
3 covered, term, or type of service authorized by the franchise.

4 SEC. 19. *Applicability of Existing Laws.* - The grantee shall
5 comply with and be subject to the provisions of Commonwealth Act
6 No. 146, or the "Public Service Act", as amended, and Republic Act
7 No. 9136.

8 SEC. 20. *Repealability and Nonexclusivity Clause.* - This
9 franchise shall be subject to amendment, alteration, or repeal by the
10 Congress of the Philippines when the public interest so requires and
11 shall not be interpreted as an exclusive grant of the privileges
12 herein provided for.

13 SEC. 21. *Separability Clause.* - If any of the sections or
14 provisions of this Act is held invalid, all other provisions not
15 affected thereby shall remain valid.

16 SEC. 22. *Repealing Clause.* - All laws, decrees, orders,
17 resolutions, instructions, and rules and regulations or parts thereof,
18 which are inconsistent with this Act are hereby deemed repealed or
19 modified accordingly.

20 SEC. 23. *Effectivity.* - This Act shall take effect fifteen (15)
21 days after its publication in the *Official Gazette* or in a newspaper of
22 general circulation.

Approved,