## (AS AMENDED BY THE SENATE)

Republic of the Philippines HOUSE OF REPRESENTATIVES Quezon City

## EIGHTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 7332 (In substitution of House Bill No. 6917)

Introduced by Reps. Weslie T. Gatchalian and Franz E. Alvarez

## AN ACT

2 RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MINDANAO ISLAMIC TELEPHONE COMPANY. INC.. 3 PRESENTLY KNOWN AS DITO TELECOMMUNITY CORPORATION, UNDER 4 **REPUBLIC ACT NO. 8627, ENTITLED "AN ACT GRANTING THE MINDANAO** 5 ISLAMIC TELEPHONE COMPANY, INC., A FRANCHISE TO CONSTRUCT, 6 ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRE AND/OR WIRELESS 7 **TELECOMMUNICATIONS SYSTEM IN THE PHILIPPINES"** 8

Be it enacted by the Senate and House of Representatives of the Philippines in
 <u>Congress assembled:</u>

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SECTION 1. Nature and Scope of Franchise. - Subject to the provisions of the 14 Constitution and applicable laws, rules and regulations, the franchise granted to 15 Mindanao Islamic Telephone Company Inc., now known as Dito Telecommunity 16 Corporation, granted under Republic Act 8627 and hereunder referred as the 17 grantee, its successors or assignees, the right, privilege and authority to carry on the 18 business of providing telecommunications services in and between provinces, cities 19 and municipalities in the Philippines and between the Philippines and other countries 20 and territories and, for this purpose, to establish, operate, manage, lease, maintain 21 and purchase telecommunications systems, including mobile, cellular and wired or 22 wireless telecommunications systems, fiber optics, satellite transmission and 23 reception systems, and other telecommunications systems and their value-added 24 25 services such as transmission of voice, data, facsimile, control signs, audio and video, and all other telecommunications systems technologies as are at present 26 available or will be made available through technical advances or innovations in the 27 future, or construct, acquire, lease, and operate or manage transmitting and 28 receiving stations and switching stations, both for local and international services, 29

lines, cables or systems, as is, or are, convenient or essential to efficiently carry out
 the purpose of this franchise is hereby renewed for another twenty-five (25) years
 from the effectivity of this Act.

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5 In this Act, the term 'Telecommunications' shall include 'electronic 6 telecommunications'. In addition, the following terms shall have the meanings set 7 forth herein:

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<sup>9</sup> 'Electronic communications network' shall mean (a) a transmission system for
conveyance by means of electrical, magnetic, or electromagnetic energy, of signals
of any description; and (b) any of the following as are used by the persons providing
the system and in association with it, for conveyance of the signals: (i) apparatus
comprised in the system; (ii) apparatus used for the switching and routing of the
systems; and (iii) software and stored data;

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<sup>16</sup> 'Electronic communications service' shall mean a service consisting in or <sup>17</sup> having as its principal feature the conveyance by means of electronic <sup>18</sup> communications network of signals. It includes wired, wireless, fixed, cellular, and/or <sup>19</sup> mobile, or integrated telecommunications/computer/electronic services, including <sup>20</sup> value-added services, or technologies related to such service, which are present <sup>21</sup> available or made available through technological advances or innovations in the <sup>22</sup> future, and fixed and mobile stations.

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

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32 SEC. 3. Authority of the National Telecommunications Commission. – The 33 grantee shall secure from the National Telecommunications Commission (NTC) a 34 Certificate of Public Convenience and Necessity or the appropriate permits and 35 licenses for the construction, installation and operation of its telecommunications systems or facilities. In issuing the certificate, the NTC shall have the power to regulate and impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunications systems or facilities. Such certificate shall state the areas covered and the date the grantee shall commence the service. The grantee shall not use any frequency in the radio spectrum without authorization from the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of such authority, permit or license.

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In case of any violation of the provisions of this franchise, the NTC shall have 9 the authority to revoke or suspend, after due process, the permits or licenses it 10 issued pursuant to the franchise. THE ASSIGNMENT OF FREQUENCIES TO THE 11 FRANCHISEE SHALL BE SUBJECT TO REVIEW AT REGULAR INTERVALS. 12 THE NTC SHALL HAVE THE AUTHORITY TO REALLOCATE REDUNDANT 13 FREQUENCIES HELD BY THE FRANCHISEE. The NTC may recommend to 14 Congress the revocation of the franchise for any violation of the provisions of this 15 franchise. 16

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SEC. 4. Excavation and Restoration Works. - For the purpose of erecting and 18 maintaining poles or other supports for said wires or other conductors for the 19 purpose of laying and maintaining underground wires, cables, or other conductors, it 20 shall be lawful for the grantee, its successors or assignees, with the prior approval of 21 the Department of Public Works and Highways (DPWH) or the local government unit 22 (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any 23 of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or 24 bridges of the province, cities, or municipalities: Provided, however, That a public 25 place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, 26 altered or changed by reason of erection of poles or other supports or the 27 underground laying of wires, other conductors or conduits, shall be repaired and 28 replaced in workmanlike manner by said grantee, its successors or assignees, in 29 accordance with the standards set by DPWH or the LGU concerned. Should the 30 31 grantee, its successors or assignees, after the ten (10)-day notice from the said authority, fail, refuse, or neglect to repair or replace any part of public place, road, 32 highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or 33 disturbed by the said grantee, its successors or assignees, then the DPWH or the 34

LGU concerned shall have the right to have the same repaired and placed in good
 order and condition, and charge the grantee, its successors or assignees at double
 the amount of the costs and expenses for such repair or replacement.

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5 SEC. 5. *Responsibility to the Public*. - The grantee shall conform to the ethics 6 of honest enterprise and not use its stations or facilities for obscene or indecent 7 transmission, or for dissemination of deliberately false information, or willful 8 misrepresentation, or assist in subversive or treasonable acts.

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

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The grantee shall improve and extend its services in areas not yet served, and in hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk Reduction and Management Council, or its legal successor, in coordination with the NTC.

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The grantee shall also improve and upgrade its equipment, facilities and services, in order to ensure effective compliance with the objectives of Republic Act No. 10639 or the "Free Mobile Disaster Alerts Act".

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

32 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource that is 33 part of the national patrimony and the use thereof is a privilege conferred upon the 34 grantee by the State and may be withdrawn any time after due process.

A special right is hereby reserved to the President of the Philippines, in times 1 of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace 2 and order: to temporarily take over and operate the stations, transmitters, facilities, or 3 equipment of the grantee; to temporarily suspend the operation of any station, 4 transmitter, facility, or equipment in the interest of public safety, security, and public 5 welfare; or to authorize the temporary use and operation thereof by any agency of 6 7 the government, upon due compensation to the grantee for the use of said stations, transmitters, facilities, or equipment during the period when these shall be so 8 9 operated.

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SEC. 8. *Term of Franchise*. – This franchise shall be extended and in effect for a period of twenty-five (25) years from its expiration on April 24, 2023, unless sooner revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate continuously for two (2) years.

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SEC. 9. RENEWAL OR EXTENSION OF FRANCHISE. – THE GRANTEE
SHALL APPLY FOR THE RENEWAL OR EXTENSION OF ITS FRANCHISE
THREE (3) YEARS BEFORE ITS EXPIRATION WHICH SHALL BE RECKONED
FROM FIFTEEN (15) DAYS AFTER THE PUBLICATION OF THE FRANCHISE
IN THE OFFICIAL GAZETTE OR IN A NEWSPAPER OF GENERAL
CIRCULATION.

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SEC. [9.] 10. *Right of Interconnection.* – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated, and maintained by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under the terms and conditions mutually agreed upon by the parties concerned. This right shall be subject to the review and modification of the NTC.

30 SEC. [<del>10.</del>] 11. *Mobile Number Portability.* – The grantee shall provide mobile 31 number portability (MNP) and its implementing mechanism, INCLUDING THE 32 REQUIRED INFRASTRUCTURE AND PROCESSES, and shall interconnect, 33 directly or indirectly, with the infrastructure, facilities, systems, or equipment of other

telecommunications franchise grantees. It shall not install network features,
 functions, or capabilities 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.]

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7 SEC. [44.] 12. *Warranty in Favor of the National and Local Governments.* -8 The grantee shall hold the national, provincial, city, and municipal governments of 9 the Philippines free from all claims, liabilities, accounts, demands, or actions arising 10 out of accidents causing injury to persons or damage to properties, during the 11 construction or operation of the stations, transmitters, facilities, or equipment of the 12 grantee.

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SEC. [12.] 13. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of 14 Franchise. - The grantee shall not sell, lease, transfer, grant the usufruct of, nor 15 assign this franchise or the rights and privileges acquired thereunder to any person, 16 firm, company, corporation or other commercial or legal entity, nor merge with any 17 other corporation or entity, nor the controlling interest of the grantee be transferred, 18 simultaneously or contemporaneously, to any person, firm, company, corporation, or 19 entity without the prior approval of the Congress of the Philippines. Congress shall 20 21 be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the 22 controlling interest of the grantee, within sixty (60) days after the completion of the 23 24 said transaction. Failure to report to Congress such change of ownership shall render the franchise ipso facto revoked. Any person or entity to which this franchise 25 is sold, transferred, or assigned shall be subject to the same conditions, terms, 26 restrictions, and limitations of this Act. 27

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SEC. [13.] 14. *Dispersal of Ownership*. - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (30%) of its [common] OUTSTANDING CAPITAL stocks, or a higher percentage that may hereafter be provided by law, in any securities exchange in the Philippines within five (5) years from the effectivity of this Act: *Provided*, That in cases where public offer of shares is not applicable, other

methods of encouraging public participation by citizens and corporations operating
public utilities must be implemented. Noncompliance therewith shall render the
franchise *ipso facto* revoked.

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SEC. [14.] 15. Business Development and/or Expansion Plan. – Except where prevented by *force majeure*, the grantee shall be obliged to carry out its business development and/or expansion plan which shall contain, among others, the phases of business development or expansion, courses of action to achieve the objectives of the franchise, capitalization, and expected milestones wothin the franchise term.

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11 SEC. [15.] 16. Commitment to Provide and Promote the Creation of *Employment Opportunities.* – The grantee shall create employment opportunities as 12 well as accept on-the-job trainees in the franchise operations: *Provided*, That priority 13 shall be accorded to the residents of the place where the principal office of the 14 grantee is located: *Provided*, *further*, That the grantee shall ensure that at least sixty 15 percent (60%) of its employees are regular employees and in no case shall the 16 percentage of contractual employees, job orders, casuals, and independent 17 contractors combined, exceed forty percent (40%) of its total workforce: Provided, 18 finally, That the grantee shall comply with the applicable labor standards and 19 allowance entitlement under existing labor laws, rules and regulations, and similar 20 21 issuances.

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The employment opportunities or jobs created shall be reflected in the 23 24 General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually. In addition, the grantee shall include in its annual report 25 to Congress the number of [its regularized employees and secure a compliance and 26 clearance] TRAINEES AND WORKERS WHOSE EMPLOYMENT STATUS ARE 27 MADE REGULAR, AND APPEND THE APPROPRIATE certificate from the 28 Department of Labor and Employment [and its relevant attached agencies] 29 ATTESTING THAT IT HAS COMPLIED WITH THE EMPLOYMENT 30 **REQUIREMENT UNDER THIS SECTION.** 31

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33 SEC. [<del>16.</del>] 17. *Contract with Private Entities.* - The grantee is authorized to 34 contract the installation and operation of the telecommunications system which is the

subject of this grant with entities with expertise in the field of telecommunicationsunder such terms and conditions as may be approved by the Commission.

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SEC. 18. TAX PROVISIONS. - THE GRANTEE, ITS SUCCESSORS OR 4 ASSIGNEES, SHALL BE LIABLE TO PAY THE SAME TAXES ON THEIR REAL 5 ESTATE, BUILDINGS AND PERSONAL PROPERTY, EXCLUSIVE OF THIS 6 FRANCHISE, AS OTHER PERSONS OR CORPORATIONS WHICH ARE NOW 7 OR HEREAFTER MAY BE REQUIRED BY LAW TO PAY, EXCEPT 8 RADIO TELECOMMUNICATIONS AND ELECTRONIC COMMUNICATIONS 9 EQUIPMENT, MACHINERY AND SPARE PARTS NEEDED IN CONNECTION 10 WITH THE BUSINESS OF THE GRANTEE WHICH SHALL BE EXEMPT FROM 11 CUSTOMS DUTIES, TARIFFS AND OTHER TAXES, AS WELL AS THOSE 12 DECLARED EXEMPT IN THIS SECTION. IN ADDITION THERETO, THE 13 GRANTEE, ITS SUCCESSORS OR ASSIGNEES, SHALL PAY A VALUE-ADDED 14 TAX ON ALL GROSS RECEIPTS OF THE BUSINESS TRANSACTED UNDER 15 THIS FRANCHISE BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, IN 16 THE PHILIPPINES, IN LIEU OF ANY AND ALL TAXES OF ANY KIND, 17 NATURE OR DESCRIPTION LEVIED, ESTABLISHED OR COLLECTED BY AN 18 AUTHORITY WHATSOEVER INCLUDING, BUT NOT LIMITED TO, CITY, 19 MUNICIPAL, PROVINCIAL OR NATIONAL, FROM WHICH THE GRANTEE IS 20 HEREBY EXPRESSLY EXEMPTED EFFECTIVE FROM THE DATE OF THE 21 EFFECTIVITY OF THIS ACT: PROVIDED, THAT THE GRANTEE, ITS 22 SUCCESSORS OR ASSIGNEES, SHALL CONTINUE TO BE LIABLE FOR 23 INCOME TAXES PAYABLE UNDER TITLE II OF THE NATIONAL INTERNAL 24 **REVENUE CODE PURSUANT TO SECTION 2 OF EXECUTIVE ORDER NO. 72** 25 UNLESS THE LATTER ENACTMENT IS AMENDED OR REPEALED, IN 26 WHICH CASE THE AMENDMENT OR REPEAL SHALL BE APPLICABLE 27 THERETO. 28

THE GRANTEE SHALL FILE THE RETURN WITH AND PAY THE TAX
DUE THEREON TO THE COMMISSIONER OF INTERNAL REVENUE OR HIS
DULY AUTHORIZED REPRESENTATIVE IN ACCORDANCE WITH THE

NATIONAL INTERNAL REVENUE CODE AND THE RETURN SHALL BE
 SUBJECT TO AUDIT BY THE BUREAU OF INTERNAL REVENUE.

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SEC. [47.] 19. *Reportorial Requirement.* – The grantee shall submit an annual report on its compliance with the terms and conditions of the franchise and on its operations to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on or before April 30 of every year during the term of its franchise.

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

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

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THE GRANTEE SHALL MAKE FULL REPORT TO THE PRESIDENT 19 AND CONGRESS ANY FORM OF DISCLOSURE OF ANY DATA OR 20 INFORMATION, ASSISTANCE, SUPPORT OR COOPERATION MADE TO A 21 FOREIGN GOVERNMENT, ITS INSTRUMENTALITIES OR AGENTS. 22 23 FAILURE TO MAKE SUCH DISCLOSURE SHALL BE A GROUND FOR THE 24 **REVOCATION OF THE FRANCHISE.** 

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THE GRANTEE SHALL ALSO SUBMIT THE REGULAR SECURITY AUDITS OF ITS NETWORK AND FACILITIES BY THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (DICT) AND THE NATIONAL SECURITY COUNCIL (NSC), AMONG OTHERS, TO THE CONGRESS OF THE PHILIPPINES AS PART OF ITS REPORTORIAL REQUIREMENTS.

32 SEC. [<del>18.</del>] 20. *Fine.* – Failure of the grantee to submit the requisite annual 33 report to Congress shall be penalized with a fine 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. The fine shall be
collected by the NTC from the delinquent franchise grantee separate from the
reportorial penalties imposed by the NTC, and the same shall be remitted to the
Bureau of the Treasury.

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SEC. [19.] 21. Equality of Treatment in the Telecommunications Industry. -9 Any advantage, favor, privilege, exemption, or immunity granted under existing 10 franchises, or may hereafter be granted UPON PRIOR REVIEW AND APPROVAL 11 12 OF CONGRESS, shall ipso facto become part of previously granted telecommunications franchises and shall be accorded immediately and 13 unconditionally to the grantees of such franchises: Provided, however, That the 14 foregoing shall neither apply to nor affect provisions of telecommunications 15 franchises concerning territory covered by the franchise, the life span of the 16 franchise, or the type of service authorized by the franchise. 17

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SEC. 22. APPLICABILITY. - ALL OTHER PROVISIONS OF REPUBLIC 19 20 ACT NO. 8627 WHICH ARE NOT INCONSISTENT WITH THE PROVISIONS OF 21 THIS ACT AND REMAIN UNREPEALED SHALL CONTINUE TO BE IN FULL 22 FORCE AND EFFECT: PROVIDED, THAT ALL PENDING SUITS OF 23 WHATEVER KIND OR NATURE, WHETHER CIVIL, CRIMINAL OR ADMINISTRATIVE FILED BY OR AGAINST THE GRANTEE IN CONNECTION 24 WITH THE PROVISIONS OF REPUBLIC ACT NO. 8627 SHALL CONTINUE TO 25 BE PROSECUTED UNDER THE SAID LAW: PROVIDED, FURTHER, THAT ALL 26 VALID AND EXISTING LIABILITIES, FINES, PENALTIES, SURCHARGES 27 AND/OR UNPAID TAX ASSESSMENTS OF THE GRANTEE FROM APRIL 19, 28 1998 UNTIL THE EFFECTIVITY OF THIS NEW ACT SHALL REMAIN VALID 29 AND ENFORCEABLE UNDER REPUBLIC ACT NO. 8627. 30

SEC. [20.] 23. Repealability and Nonexclusivity Clause. – This franchise shall
 be subject to amendment, alteration, or repeal by the Congress of the Philippines

when the public interest so requires and shall not be interpreted as an exclusivegrant of the privilege herein provided for.

3	SEC. [21.] 24. Separability Clause If any of the sections or provisions of
4	this Act is held invalid, all other provisions not affected thereby shall remain valid.
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6	SEC. [22.] 25. Repealing Clause All laws, decrees, orders, resolutions,
7	instructions, rules and regulations, and other issuances or parts thereof which are
8	inconsistent with the provisions of this Act are hereby repealed, amended, or
9	modified accordingly.
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11	SEC. [23.] 26. Effectivity This Act shall take effect fifteen (15) days after its
12	publication in the Official Gazette or in a newspaper of general circulation.
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14 Approved,

## COMMITTEE REPORT NO. 405

Submitted by the Committee on Legislative Franchises on AUG 1 0 2020

Re: House Bill No. 7332

Recommending its approval in substitution of House Bill No. 6917

Sponsors: Representatives Franz E. Alvarez and Weslie T. Gatchalian

Mr. Speaker:

The Committee on Legislative Franchises to which was referred House Bill No. 6917, authored by Rep. Weslie T. Gatchalian entitled:

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MINDANAO ISLAMIC TELEPHONE COMPANY, INC., PRESENTLY KNOWN AS DITO TELECOMMUNITY CORPORATION, AND AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8627, ENTITLED "AN ACT GRANTING THE MINDANAO ISLAMIC TELEPHONE COMPANY, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEM IN THE PHILIPPINES""

has considered the same and recommends that the attached House Bill No. 7332 entitled:

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MINDANAO ISLAMIC TELEPHONE COMPANY, INC., PRESENTLY KNOWN AS DITO TELECOMMUNITY CORPORATION, UNDER REPUBLIC ACT NO. 8627, ENTITLED "AN ACT GRANTING THE MINDANAO ISLAMIC TELEPHONE COMPANY, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEM IN THE PHILIPPINES""

be approved in substitution of House Bill No. 6917 with Reps. Weslie T. Gatchalian and Franz E. Alvarez as authors thereof.