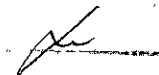


FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

8 AUG 28 25 57

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 98

Submitted by the Committee on Public Services on AUG 28 2008

RE : H. B. No. 3789.

Recommending the approval of H. B. No. 3789 without amendment.

Sponsor : Senator Enrile

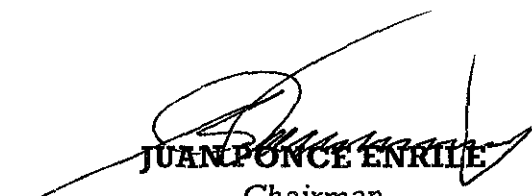
MR. PRESIDENT:

The Senate Committee on Public Services to which was referred H. B. No. 3789, introduced by Representatives Talino-Santos, Biron and Antonino-Custodio, entitled:

**"AN ACT
GRANTING THE METRO KIDAPAWAN TELEPHONE
CORPORATION (MKTC) A FRANCHISE TO CONSTRUCT,
INSTALL, ESTABLISH, OPERATE AND MAINTAIN LOCAL
EXCHANGE NETWORK IN THE PROVINCE OF NORTH
COTABATO."**

has considered the same and has the honor to report ^{it} back to the Senate with the recommendation that the **H. B. No. 3789** be approved without amendments.

Respectfully submitted:


JUAN PONCE ENRILE
Chairman
Committee on Public Services

JOKER P. ARROYO
Vice-Chairman
Committee on Public Services

MEMBERS:

EDGARDO J. ANGARA

RICHARD J. GORDON

GREGORIO "Gringo" B. HONASAN

MANUEL "Lito" M. LAPID

JUAN MIGUEL F. ZUBIRI

RODOLFO G. BIAZON

PANFILO "Ping" M. LACSON

M. A. MADRIGAL

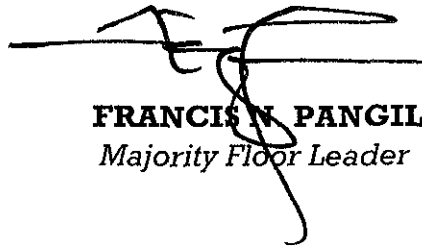
ANTONIO "Sonny" F. TRILLANES

EX- OFFICIO MEMBERS:

JINGGOY P. EJERCITO ESTRADA
President Pro-Tempore

*May ask questions
of amend.*

AQUILINO Q. PIMENTEL, JR.
Minority Floor Leader



FRANCIS N. PANGILINAN
Majority Floor Leader

MANNY VILLAR
Senate President
Pasay City



HOUSE OF REPRESENTATIVES

H. No. 3789

BY REPRESENTATIVES TALIÑO-MENDOZA, BIRON AND ANTONINO-CUSTODIO,
PER COMMITTEE REPORT NO. 386

AN ACT GRANTING THE METRO KIDAPAWAN TELEPHONE CORPORATION (MKTC) A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE NETWORK IN THE PROVINCE OF NORTH COTABATO

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 regulations, there
3 is hereby granted to the Metro Kidapawan Telephone Corporation (MKTC),
4 hereunder referred to as the grantee, its successors or assigns, a franchise to
5 construct, install, establish, operate and maintain for commercial purposes and
6 in the public interest, local exchange network, including public calling stations
7 or pay telephone stations or wireless local loop and their value-added services
8 in the Province of North Cotabato, and for such purpose provide basic
9 telephone service capable of accessing local, national, international and other
10 networks.

11 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations
12 or facilities of the grantee shall be constructed and operated in a manner that

1 will, at most, result only in the minimum interference on the wavelengths or
2 frequencies of existing stations or other stations which may be established by
3 law, without in any way diminishing its own right to use its selected
4 wavelengths or frequencies and the quality of transmission or reception thereon
5 as should maximize rendition of the grantee's services and/or the availability
6 thereof. In no way shall the operations of the grantee, nor the radiated power
7 of its stations or facilities, exceed that required to cover the area where it is
8 allowed to operate.

9 SEC. 3. *Authority of the National Telecommunications Commission.* –

10 The grantee shall secure from the National Telecommunications Commission
11 (NTC), hereinafter referred to as the Commission, a certificate of public
12 convenience and necessity or the appropriate permits and licenses for the
13 construction, installation and operation of its telecommunications
14 systems/facilities. In issuing the certificate, the Commission shall have the
15 power to impose such conditions relative to the construction, operation,
16 maintenance or service level of the telecommunications system. The
17 Commission shall have the authority to regulate the construction and operation
18 of its telecommunications system. The grantee shall not use any frequency in
19 the radio spectrum without having been authorized by the Commission. Such
20 certificate shall state the areas covered and date the grantee shall commence
21 the service. The Commission, however, shall not unreasonably withhold or
22 delay the grant of any such authority, permits or licenses.

23 SEC. 4. *Responsibility to the Public.* – The grantee shall conform to the
24 ethics of honest enterprise and not use its stations/facilities for obscene or
25 indecent transmission or for dissemination of deliberately false information or
26 willful misrepresentation, or assist in subversive or treasonable acts.

27 The grantee shall provide basic or enhanced telephone service within
28 the Province of North Cotabato where it has an approved certificate of public

1 convenience and necessity for the establishment, operation and maintenance of
2 a local exchange service, without discrimination to any applicant therefor, in
3 the order of the date of their applications, up to the limit of the capacity of its
4 local telephone exchange, and should the demand for the telephone service at
5 any time increase beyond the capacity thereof, the grantee shall increase the
6 same to meet such demand: *Provided*, That in case the total demand to be
7 satisfied by the expansion is less than the smallest viable local exchange
8 available in the market as determined by the Commission, the grantee shall not
9 be obliged to furnish such service unless the applicant for telephone service
10 defrays the actual expenses for the installation of the telecommunications
11 apparatus necessary for such services and in such case, the Commission may
12 extend the time within which the grantee shall furnish such service.

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

18 SEC. 5. *Rates for Services.* – The charges and rates for
19 telecommunications services of the grantee, except the rates and charges on
20 those that may hereafter be declared or considered as nonregulated services,
21 whether flat rates or measured rates or variation thereof, shall be subject to the
22 approval of the Commission or its legal successor. The rates to be charged by
23 the grantee shall be unbundled, separable and distinct among the services
24 offered and shall be determined in such a manner that regulated services do not
25 subsidize the unregulated ones.

26 SEC. 6. *Right of Government.* – A special right is hereby reserved to
27 the President of the Philippines, in times of war, rebellion, public peril,
28 calamity, emergency, disaster or disturbance of peace and order, to temporarily

1 take over and operate the stations, transmitters, facilities or equipment of the
2 grantee, to temporarily suspend the operation of any station, transmitter,
3 facility or equipment in the interest of public safety, security and public
4 welfare, or to authorize the temporary use and operation thereof by any agency
5 of the government, upon due compensation to the grantee, for the use of said
6 stations, transmitters, facilities or equipment during the period when they shall
7 be so operated.

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

11 SEC. 7. *Term of Franchise.* – This franchise shall be for a term of
12 twenty-five (25) years from the date of effectivity of this Act, unless sooner
13 revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the
14 event the grantee fails to comply with any of the following conditions:

15 (a) Commence operations within three (3) years from the approval of
16 its operating permit or provisional authority by the NTC;

17 (b) Operate continuously for two (2) years; and

18 (c) Commence operations within five (5) years from the effectivity of
19 this Act.

20 SEC. 8. *Acceptance and Compliance.* – Acceptance of this franchise
21 shall be given in writing within sixty (60) days from the effectivity of this Act.
22 Upon giving such acceptance, the grantee shall exercise the privileges granted
23 under this Act. Nonacceptance shall render the franchise void.

24 SEC. 9. *Bond.* – The grantee shall file a bond issued in favor of the
25 National Telecommunications Commission, which shall determine the amount,
26 to guarantee the compliance with and fulfillment of the conditions under which
27 this franchise is granted. If, after five (5) years from the date of the approval
28 of its permit by the Commission, the grantee shall have fulfilled the same, the

1 bond shall be cancelled by the Commission. Otherwise, the bond shall be
2 forfeited in favor of the government and the franchise *ipso facto* revoked.

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

11 SEC. 11. *Gross Receipts.* – The grantee, its successors or assigns, shall
12 keep a separate account of the gross receipts of the business transacted by it
13 and shall furnish the Commission on Audit and the National Treasury a copy of
14 such account not later than the thirty-first (31ST) day of January of each year
15 for the preceding twelve (12) months.

16 SEC. 12. *Books and Accounts.* – The books and accounts of the
17 grantee, its successors or assigns, shall always be open to the inspection of the
18 Commissioner on Audit or his authorized representatives and it shall be the
19 duty of the grantee to submit to the COA, two (2) copies of the quarterly
20 reports on the gross receipts, the net profits and the general condition of the
21 business.

22 SEC. 13. *Warranty in Favor of the National and Local Governments.* –
23 The grantee shall hold the national, provincial, city and municipal governments
24 of the Philippines free from all claims, accounts, demands or actions arising
25 out of accidents or injuries, whether to property or to persons, caused by the
26 construction or operation of the stations, transmitters, facilities and equipment
27 of the grantee.

1 SEC. 14. *Nontransferability of Franchise.* – The grantee shall not lease,
2 transfer, grant the usufruct of, sell nor assign this franchise or the rights and
3 privileges acquired thereunder to any person, firm, company, corporation or
4 other commercial or legal entity, nor merge with any other corporation or
5 entity, nor shall the controlling interest of the grantee be transferred, whether
6 as a whole or in parts and whether simultaneously or contemporaneously, to
7 any such person, firm, company, corporation or entity without the prior
8 approval of the Congress of the Philippines. Any person or entity to which this
9 franchise is sold, transferred or assigned, shall be subject to the same
10 conditions, terms, restrictions and limitations of this Act.

11 SEC. 15. *Dispersal of Ownership.* – In accordance with the
12 constitutional provision to encourage public participation in public utilities, the
13 grantee shall offer at least thirty percentum (30%) of its outstanding capital
14 stock or a higher percentage that may hereafter be provided by law in any
15 securities exchange in the Philippines within ten (10) years from the
16 commencement of its operations or from the date of effectivity of this Act,
17 whichever is later. Noncompliance therewith shall render the franchise *ipso*
18 *facto* revoked.

19 SEC. 16. *Reportorial Requirement.* – The grantee shall submit an
20 annual report to the Congress of the Philippines on its compliance with the
21 terms and conditions of the franchise and on its operations within sixty (60)
22 days from the end of every year.

23 SEC. 17. *Equality Clause.* – Any advantage, favor, privilege,
24 exemption or immunity granted under existing franchise, or which may
25 hereafter be granted for local telephone system, shall *ipso facto* become part of
26 this franchise and shall be accorded immediately and unconditionally to the
27 herein grantee: *Provided, however,* That the foregoing shall neither apply to
28 nor affect provisions of local telephone system franchises concerning territory

1 covered by the franchise, the life span of the franchise or the type of service
2 authorized by the franchise.

3 SEC. 18. *Separability Clause.* – If any of the sections or provisions of
4 this Act is held invalid, all other provisions not affected thereby shall remain
5 valid.

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

10 SEC. 20. *Effectivity Clause.* – This Act shall take effect fifteen (15)
11 days from the date of its publication, upon the initiative of the grantee, in at
12 least two (2) newspapers of general circulation in the Philippines.

Approved,