



HOUSE OF REPRESENTATIVES

H. No. 5146

BY REPRESENTATIVES DEFENSOR (A.) AND BIRON, PER COMMITTEE REPORT
No. 1285

AN ACT GRANTING THE PANAY TELEPHONE CORPORATION
(PANTELCO III) A FRANCHISE TO CONSTRUCT, INSTALL,
ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE
NETWORK IN THE MUNICIPALITIES OF CABATUAN, JANIUAY
AND BADIANGAN, ALL IN THE PROVINCE OF ILOILO

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 SECTION I. *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 Panay Telephone Corporation (PANTELCO III),
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 municipalities of Cabatuan, Janiuay and Badiangan, all in the Province
9 of Iloilo, and for such purpose provide basic telephone service capable of
10 accessing local, national, international and other networks.

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

11 SEC. 3. *Authority of the National Telecommunications Commission.* –
12 The grantee shall secure from the National Telecommunications commission
13 (NTC), hereinafter referred to as the commission, a certificate of public
14 convenience and necessity or the appropriate permits and licenses for the
15 construction, installation and operation of its telecommunications
16 systems/facilities. In issuing the certificate, the Commission shall have the
17 power to impose such conditions relative to the construction, operation,
18 maintenance or service level of the telecommunications system. The
19 Commission shall have the authority to regulate the construction and operation
20 of its telecommunications systems. The grantee shall not use any frequency in
21 the radio spectrum without having been authorized by the Commission. Such
22 certificate shall state the areas covered and date the grantee shall commence
23 the service. The Commission, however, shall not unreasonably withhold or
24 delay the grant of any such authority, permits or licenses.

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

1 The grantee shall provide basic or enhanced telephone service within
2 the municipalities of Cabatuan, Janiuay and Badiangan, all in the Province of
3 Iloilo, where it has an approved certificate of public convenience and necessity
4 for the establishment, operation and maintenance of a local exchange service,
5 without discrimination to any applicant therefor, in the order of the date of
6 their applications, up to the limit of the capacity of its local telephone
7 exchange, and should the demand for the telephone service at any time
8 increase beyond the capacity thereof, the grantee shall increase the same to
9 meet such demand: *Provided*, That in case the total demand to be satisfied by
10 the expansion is less than the smallest viable local exchange available in the
11 market as determined by the Commission, the grantee shall not be obliged to
12 furnish such service unless the applicant for telephone service defrays the
13 actual expenses for the installation of the telecommunications apparatus
14 necessary for such services and in such case, the Commission may extend the
15 time within which the grant shall furnish such service.

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

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

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

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

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

18 (a) Commence operation within three (3) years from the approval of its
19 operating permit or provisional authority by the NTC;

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

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

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

27 SEC. 9. *Bond.* – The grantee shall file a bond issued in favor of the
28 NTC, which shall determine the amount, to guarantee the compliance with and

1 fulfillment of the conditions under which this franchise is granted. If, after five
2 (5) years from the date of the approval of its permit by the Commission, the
3 grantee shall have fulfilled the same, the bond shall be cancelled by the
4 Commission. Otherwise, the bond shall be forfeited in favor of the
5 government and the franchise *ipso facto* revoked.

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

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

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

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

1 construction or operation of the stations, transmitters, facilities and equipment
2 of the grantee.

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

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

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

25 SEC. 17. *Equality Clause.* – Any advantage, favor, privilege,
26 exemption or immunity granted under existing franchises, or may hereafter be
27 granted, shall *ipso facto* become part of previously granted
28 telecommunications franchises and shall be accorded immediately and

1 unconditionally to the grantees of such franchises: *Provided, however,* That the
2 foregoing shall neither apply to nor affect provisions of telecommunications
3 franchises concerning territory covered by the franchise, the life span of the
4 franchise or the type of service authorized by the franchise.

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

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

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

Approved,

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