

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand eighteen.

[REPUBLIC ACT NO. 11420]

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

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

SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to the Bases Conversion and Development Authority (BCDA), a government entity created pursuant to Republic Act No. 7227, as amended, otherwise known

as the "Bases Conversion and Development Act of 1992", and hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate, lease, own, manage and maintain for commercial purposes and in the public interest, distribution systems for the conveyance of electric power to end users in selected areas covered by the grantee pursuant to Republic Act No. 7227, as amended.

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) Capas Relay Station (Capas, Tarlac); and
- (e) Portion of the Clark Special Economic Zone (CSEZ) covering the new Clark City (Tarlac).

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

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

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

SEC. 4. *Excavation and Restoration Works*. – For the purpose of erecting and maintaining poles and other supports for wires or other conductors for the laying and maintaining of underground wires, cables, pipes or other conductors, the grantee, its successors or assignees, is authorized to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of said province, cities and/or municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned: *Provided, however*, That any public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered, or changed by reason of erection of poles or other supports or the underground laying of wires, other conductors or conduits, shall be repaired or replaced in workmanlike manner at the expense of the grantee, its successors or assignees, in accordance with the standards set by the DPWH or the LGU concerned. Should the 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 a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been disturbed, altered, or changed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired or replaced in good order and condition and charge the grantee, its successors or assignees at double the amount of the cost and expenses for such repair or replacement.

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

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

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

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

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

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

SEC. 8. Right of the Government. – A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order: to temporarily take over and operate the distribution system of the grantee; to temporarily suspend the operation of any station or facility in the interest of public safety, security and public welfare; or to authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee, for the use of

said distribution system during the period when these shall be so operated.

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

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

- (a) Commence operations within one (1) year from the approval of its operating permit by the ERC;
- (b) Commence operations within three (3) years from the effectivity of this Act; and
- (c) Operate continuously for two (2) years.

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

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

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

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

SEC. 14. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation, or other commercial or legal entity, nor merge with any other corporation or entity, nor shall transfer the controlling interest of the grantee, whether as a whole or in part, and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. For purposes of this Act, the rights and privileges hereby granted to the grantee shall be enjoyed by the joint venture corporation to be established by the grantee and the consortium of Manila Electric Company, Marubeni Corporation, Kansai Electric Power Co., Inc., and Chubu Electric Power Co., Inc., pursuant to the Joint Venture Agreement dated 3 April 2019 which was awarded after the conduct of a competitive selection process. Said joint venture corporation established by the grantee shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

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

created shall be reflected in the Government Corporation Information Sheet (GCIS) to be submitted to the Securities and Exchange Commission (SEC) annually.

SEC. 16. *Reportorial Requirement.* – During the term of its franchise, the grantee shall submit an annual report 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 its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of the succeeding year.

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

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

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

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

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

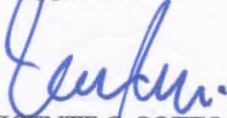
SEC. 20. *Repealability and Nonexclusivity Clause.* – This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

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

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

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

Approved,



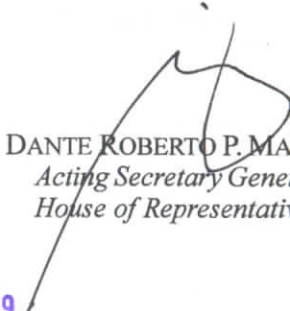
VICENTE C. SOTTO III
President of the Senate



GLORIA MACAPAGAL ARROYO
*Speaker of the House
of Representatives*

This Act which originated in the House of Representatives was passed by the House of Representatives and the Senate of the Philippines on June 4, 2019.


MYRA MARIE D. VILLARICA
Secretary of the Senate


DANTE ROBERTO P. MALING
*Acting Secretary General
House of Representatives*

Approved: **AUG 22 2019**




RODRIGO ROA DUTERTE
President of the Philippines

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