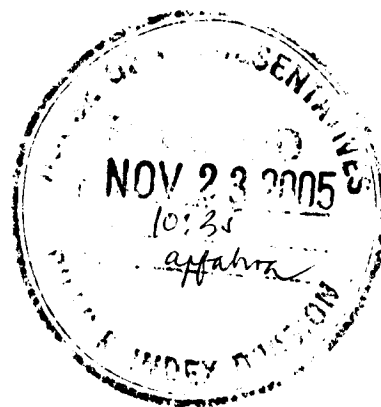


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

13th CONGRESS
Second Regular Session

House Bill No. 4940



Introduced by Rep. Emmylou "Lala" Taliño-Santos and Rep. Gregorio T. Ipong

EXPLANATORY NOTE

The ability of the Philippines to sustain technological advancements and attract much needed foreign investments depends, in large measures, on the efficiency of its telecommunications systems. For it is telecommunications that fuels socio-economic growth by linking people, markets and industries.

Since 1995, however, the ratio of telephone landlines to people, particularly in the rural country side, has failed to go beyond the 4:100 level. Despite the dismantling of a virtual monopoly in the industry and the subsequent entry of new players, our telecommunications services are poor and inadequate.

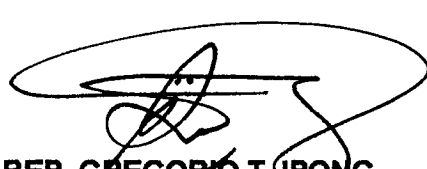
A primary stumbling block to expansion has been the apparent reluctance of most major service providers to go into less-profitable rural areas where subscriber density is not assured. This general reluctance has greatly encouraged the growth of smaller but equally efficient, local players.

The key, therefore, to improving the telecommunications index and inducing unprecedented investments in the regard lies in creating a policy environment that will encourage the participation of such locally-based providers.

This bill seeks to grant franchise that will allow the operation of one such countryside telecommunication system in the Province of North Cotabato.

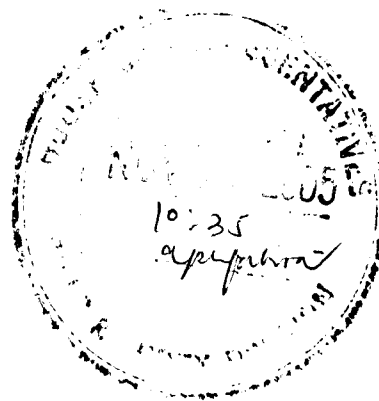
Because of its timeliness, relevance and importance to national development goals, therefore, approval of this measure is earnestly requested.


REP. EMMYLOU "LALA" TALIÑO-SANTOS
1st District- Cotabato Province


REP. GREGORIO T. IPONG
2nd District-Cotabato Province

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

13th CONGRESS
Second Regular Session



House Bill No. 4940

Introduced by Rep. Emmylou "Lala" Taliño-Santos and Rep. Gregorio T. Ipong

AN ACT

GRANTING THE METRO KIDAPAWAN TELEPHONE CORPORATION (MKTC) A FRANCHISE TO ESTABLISH, CONSTRUCT, INSTALL, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEM: CIRCUIT AND STATIONS THROUGHOUT THE PROVINCE OF NORTH COTABATO FOR PUBLIC DOMESTIC AND INTERNATIONAL COMMUNICATIONS, AND FOR OTHER PURPOSES

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 application laws, rules and regulations, there is hereby granted to the Metro Kidapawan Telephone Corporation, its successors or assigns and hereunder referred to as the grantee, a franchise to establish, install, maintain, lease and operate for commercial purposes in the public interest wire and/or wireless telecommunications systems, lines, circuits and stations throughout the Philippines for public domestic and international record and/or voice communications and their value-added services including but not limited to pay television and/or program services, and to install corresponding transmitting and receiving stations at such places in the Philippines as it may consider necessary and convenient.

Section 2. Manner of Operation of Stations. – The stations of the Grantee shall be constructed and operated in a manner as will at the most result only in the minimum interference on the wavelength or frequencies of the existing stations or other stations which may be established in accordance with law of other telecommunication services grantees without any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as would maximize rendition of the Grantees services and/or availability thereof.

Section 3. Prior Approval of the National Telecommunications Commission. – The Grantee shall secure from National Telecommunications Commission or its legal successor the appropriate certificates, permits, and licenses and shall not exercise any rights and privileges under this franchise without having been authorized by the Commission. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority.

Section 4. Responsibility to the Public. – The Grantee shall provide basic or enhanced telephone service in any municipality in the Philippines, where it has an approved certificate of public convenience for the establishment, operation and maintenance of a local exchange service, without discrimination to any applicant therefore, in the order of the date of their applications up to the limit of the capacity of its local telephone exchange and should the demand for the telephone service at any time increase beyond the capacity thereof, the Grantee shall increase the same to meet such demand. Provided, that in the case the total demand to be satisfied by the expansion is less than the smallest viable local exchange available in the market

as may be determined by the Commission; the Grantee shall not be obliged to furnish said service, unless the applicant for Telephone service defrays the actual expenses for the installation of the Telecommunication apparatus necessary for such services and in such cases the Commission may extend the time within which the Grantee shall furnish such service.

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.

Section 5. Eminent Domain. – 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 in case the owner refuses to sell or allow the use thereof, the proper condemnation proceedings shall be instituted; Provided further, that just compensation is paid.

Section 6. Ingress and Egress. – For the purpose of installing, operating and maintaining its telecommunication lines, it shall be lawful for the Grantee to make excavation or lay conduits in any of the public places, highways, streets, lanes, sidewalks, bridges or infrastructure in any provinces and municipalities provided, however, that any public place, highway, street, lane, sidewalk, bridge, or infrastructure disturbed, altered, or changed thereby shall be repaired and replaced in a workmanlike manner by the Grantee to the satisfaction of the Department of Public Works and Highways or the local engineering office, as the case may be, and/or in accordance with existing laws or rules on excavations and reconstitution of such public civil works.

Section 7. Interconnection. – The Grantee is authorized to connect or demand connection of its telecommunications system to any other telecommunications system installed, maintained and operated by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunication to any other telecommunication systems services to the public under such terms and conditions mutually agreed upon by the interconnection and the same shall be subject to the review or modification of the commission.

Section 8. Equality Clause. – If any subsequent franchise for telecommunication service is awarded or granted by the Congress of the Philippines with terms, privileges and conditions more favorable and beneficial than those contained in this Act, then the same privileges or advantages shall ipso facto accrue to the herein Grantee and be deemed part of its Act.

Section 9. Rates of Service. – The subscription charges and rates for services, excluding the sale or lease of equipment or units that the Grantee shall offer to the public shall be subject to the approval of the National Telecommunications Commission or its legal successor.

Section 10. Right of 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 take over and operate the stations, transmitter systems, facilities and equipment of the grantee, to temporarily suspend the operation of any station 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 stations, transmitter systems, facilities and equipment during the period when they shall be so operated.

Section 11. Term of Franchise. – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of its Act, unless sooner revoked or cancelled. In the event the Grantee fails to operate continuously for two (2) years, this franchise shall be deemed ipso facto revoked.

Section 12. Acceptance of Franchise. – Within sixty (60) days after the effectivity of this Act, the Grantee shall file with the Secretary of Transportation and Communications its written acceptance of this franchise and of all terms and conditions hereof. In default of such acceptance within the said time, this franchise shall become null and void.

As a guaranty that it has accepted this franchise in good faith, the Grantee shall within thirty (30) days from the granting of its first certificate of public convenience, file a bond in the amount of five hundred thousand pesos (P500,000.00).

Should the Grantee fail, refuse or neglect to begin the business of providing any of the services authorized herein within two (2) years of the grant of the certificate of public convenience and for any reason other than an act of God, act of the public enemy, military power, martial law, riot, civil commotion, or unavoidable cause, then the bond prescribed under this section shall be forfeited in favor of the national government as liquidated damages.

Should the Grantee perform on time the undertaking for which the bond is required, then the bond shall be cancelled within six (6) months of commencement of service.

Section 13. Tax Provisions. – The Grantee, its successors or assigns shall be liable to pay the same taxes on their real estate, building and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the Grantee, its successors or assigns shall pay a franchise tax equivalent to one-third of one percent (1/3 of 1%), of all gross receipts of the business transacted under this franchise by the Grantee, its successors or assigns, and the said percentage. Provided, that the Grantee, its successors or assigns, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The Grantee shall file the return and pay the tax 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.

Section 14. Warranty in Favor of National and Local Governments. – The Grantee shall hold the national, provincial and municipal governments of the Philippines free from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations, system, facilities and equipment of the Grantee.

Section 15. Sale, Lease, Transfer, Usufruct, etc. – The Grantee shall not lease, transfer, grant the usufruct of, sell nor assign the franchise herein granted or the rights and privileges acquired there under to any person, firm, company, corporation or entity, nor merge with any corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which the franchise herein granted is validly sold, transferred or assigned shall be subject to the same conditions, terms, restrictions, and limitations of its Act.

Section 16. General Telecommunications Policy Law. – The Grantee shall comply with and be subject to the provisions of a general telecommunications policy law which Congress may hereafter enact.

Section 17. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

Section 18. Repealability and Nonexclusivity Clauses. – The franchise herein granted 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.

Section 19. Reportorial Requirement. – The Grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of its franchise and on its operations within sixty (60) days from the end of every year.

Section 20. Effectivity Clause. – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

APPROVED.