

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 2291

Introduced by Honorable Danilo E. Suarez

EXPLANATORY NOTE

The grant of franchises is a constitutionally mandated responsibility of Congress, especially those operating public utilities such as water, electricity, telecommunications, toll ways and media. Those who are interested to invest in public utilities need to seek congressional approval for their franchise. The Constitution prohibits 100 percent foreign ownership and maintains a 60 percent Filipino and 40 percent foreign share in ownership.

However, such requirement of securing a legislative franchise is circumvented by investors who want to expand their business into other utilities by buying controlling stocks or shares in other utility companies (an example is that of the case of MERALCO). Under existing laws, such moves by businessmen are within legal binds, since they invest in different utilities and do not monopolize a certain service. The implication of this situation, on other hand, is the concentration of ownership to a very few who have the capital to invest in the diversification of their business ventures, especially utilities.

To address these circumstances in the present investment trend or pattern in public utilities and avoid the concentration of ownership to a few, this measure proposes to restrict the participation of individuals and corporations in public utilities. Among the proposals of this measure is to limit the right of participation in public utilities into one type of service only, and in case there are participation in two or more public utilities, it is also mandated by this proposal that the person, natural or juridical, shall divest his/its interests in the other public utilities until he/its participation is limited to one type of service. The same holds true in the control of ownership/power of control in the operation of public utilities.

The State needs to provide its citizens a more equitable distribution of opportunities, income and wealth, at the same time, encourage equity participation in public utilities by the general public. The scenario the government needs to avoid is the control of the ownership of public utilities into a few business corporations which may impact in political affairs and direction in the future. The government shall, first and foremost, put public interest at the forefront of its development strategies and plans, including investments.

In the interest of ensuring quality service in public utilities through equitable participation, earliest approval of this bill is earnestly sought.


DANILO E. SUAREZ
Representative
3rd District, Province of Quezon

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

House Bill No. 2291

Introduced by Honorable Danilo E. Suarez

**AN ACT LIMITING THE PARTICIPATION OF INDIVIDUALS AND CORPORATIONS
IN PUBLIC UTILITIES**

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

SEC. 1. *Declaration of Policy* – It is the policy of the State to provide its citizens a more equitable distribution of opportunities, income and wealth. The State shall also encourage equity participation in public utilities by the general public.

SEC. 2. *Definition of Terms* – Whenever used in this Act, the following terms shall be understood to mean as follows:

- (a) Public utilities – Any corporation, partnership or joint-venture, engaged directly or indirectly in providing services to the general public in the form of water, electricity, transportation, and media services.
- (b) Type of service – Refers to services provided by public utilities, such as, but not limited to, water, electricity, transportation, and media services.
- (c) Participation in public utilities – Includes owning at least 30% of outstanding capital stock, or membership in the board of directors, of public utilities or corporations involved, directly or indirectly, in the operation of public utilities.
- (d) Control – The ability to materially influence the operations of a public utility through
 - i. Ownership;
 - ii. Having the right to sell, encumber or otherwise dispose the assets of a public utility; or,
 - iii. Having rights and contracts which confer influence on the composition, voting or decisions of the organs of a public utility.

SEC. 3. *Limitation of the participation of individuals and corporations in public utilities* – Any person, natural or juridical, shall have the right of participation in public utilities engaged in only one (1) type of service, to the exclusion of others. Participation in multiple public utilities engaged in a single type of service, in accordance with law, shall not be limited; *Provided*, That no law against monopolies, unfair competition, and restriction of free trade is violated.

SEC. 4. *Effect of participation in public utilities involved in multiple services*– Any person, natural or juridical, participating in two (2) or more public utilities involved in different types of services shall be required to divest his/its interests in one or more

public utilities until his/its participation is limited to public utilities involved in only one (1) type of service.

SEC. 5. *Controlling ownership/Power of Control* – The same limitations and effects in Sections 3 and 4 of this Act shall apply to persons and corporations exercising control over corporations engaged, directly or indirectly, in the operation of public utilities.

SEC 6. *Repealing Clause* – All laws, orders, issuances, circulars, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 7. *Separability Clause* – If any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected shall continue to be in full force and effect.

SEC. 8. *Effectivity* – This Act shall take effect immediately following its publication in at least two (2) national papers of general circulation.

Approved,