

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

Second Regular Session

House Bill No. 5381



Introduced by Reps. GIORGIDI B. AGGABAO, ARTURO B. ROBES and
MARCELINO "Marcy" R. TEODORO

EXPLANATORY NOTE

In line with the government's thrust of improving the power industry, the country's sole transmission system operated by the National Transmission Corporation (TRANSCO) was bid out by the Power Sector Assets and Liabilities Management Corporation (PSALM) in 2007. The consortium of Monte Oro Grid Resources Corporation, Calaca High Power Corp., and State Grid of China emerged as the highest bidder for a 25-year concession of the TRANSCO.

As part of the requirements of the PSALM, the winning bidder needs to secure a legislative franchise from Congress before it can operate the transmission business of the government. Thus, Monte Oro Grid Resources Corp., Calaca High Power Corp., and State Grid of China incorporated as the National Grid Corporation of the Philippines (NGCP) for the purpose of securing the franchise. The NGCP got their 25-year franchise through Republic Act No. 9511 on December 1, 2008. R.A. 9511 however, upon review, was granted certain privileges, quite favorable to the Grantee, to wit:

- Section 1 of R.A. 9511 gave authority to NGCP to engage in ancillary or related businesses that would maximize the utilization of its assets, such as but not limited to telecommunications, pursuant to Section 20 of Republic Act No. 9136.
- Section 6 on sale, lease, transfer, usufruct does not require anymore the prior approval of Congress as stipulated on the sub-provisions.
- Section 9 of the said franchise law on Tax Provision, expressly imposes three percent (3%) franchise tax in lieu of all taxes, duties,

fees and charges of any kind, nature or description, levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise.

This bill therefore seeks to amend the franchise of NGCP by limiting the nature and scope of its franchise to the core business it applied for its franchise which is the operation of the national transmission system in the power industry and related businesses to power transmission, and removing telecommunications on the scope. Congress requires corporations to have separate franchise for each kind of public utility service, in this case, NGCP should have its franchise only in transmission and should have separate franchise in telecommunications if it would like to engage in this business in the future.

Further, Sections 6 and 9 are also being amended to allow different government agencies to collect all taxes and fees due to the government thereby providing a level-playing field to all corporations engaged in the power industry. . With the significance NGCP plays in the Philippine economy, any change in the composition of the corporate owners should, at the very least, be concurred by Congress.

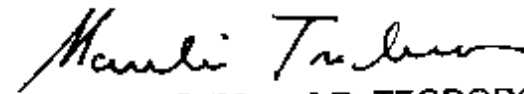
In view of the foregoing, approval of this proposed measure is earnestly requested.



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Lone District- San Jose del Monte City



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AN ACT
AMENDING REPUBLIC ACT NO. 9511 ENTITLED, "AN ACT GRANTING THE
NATIONAL GRID CORPORATION OF THE PHILIPPINES A FRANCHISE TO
ENGAGE IN THE BUSINESS OF CONVEYING OR TRANSMITTING
ELECTRICITY THROUGH HIGH VOLTAGE BACK-BONE SYSTEM OF
INTERCONNECTED TRANSMISSION LINES, SUBSTATIONS AND RELATED
FACILITIES AND FOR OTHER PURPOSES"

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

SECTION 1. Section 1 of Republic Act No. 9511 is hereby amended to
read as follows:

"SECTION 1. Nature and Scope of Franchise. – Subject to the
provisions of the Constitution and applicable laws, rules and regulations
and subject to the terms and conditions of the concession agreement and
other documents executed with the National Transmission Corporation
(TRANSCO) and the Power Sector assets and Liabilities Management
Corporation (PSALM) pursuant to Section 21 of Republic Act No. 9136,
which are not inconsistent herewith, there is hereby granted to the
National Grid Corporation of the Philippines, hereunder referred to as the

Grantee, its successors or assigns, a franchise to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines. The Grantee shall continue to operate and maintain the subtransmission systems which have not been disposed by TRANSCO. Likewise, the Grantee is authorized to engage in ancillary businesses and any related business which maximizes utilization of its assets [such as, but not limited to telecommunication system,] pursuant to Section 20 of Republic Act no. 9136. The scope of the franchise shall be nationwide in accordance with the Transmission Development Plan, subject to amendments or modifications of the said Plan, as may be approved by the Department of Energy of the Republic of the Philippines."

SEC. 2. Section 6 of Republic Act No. 9511 is hereby amended to read as follows:

"SEC. 6. Sale, Lease, Transfer, Usufruct, Etc. – The Grantee shall not lease, transfer, grant the usufruct of, or sell this franchise or the rights and privileges acquired hereunder to any person, firm, company or other

commercial or legal entity [, nor merge with any other company, nor shall the controlling interest of the Grantee be transferred whether in whole or in part, and whether simultaneously or contemporaneously, to any person, firm, company or entity] without the prior approval of the Congress of the Philippines: *Provided*, That the foregoing limitation shall not apply to any transfer or issuance of shares of stock in the implementation of the requirement for the Grantee's dispersal of ownership pursuant to Section 8 of this Act; or to any issuance of shares to any foreign or local investors pursuant to or in connection with any increase in the Grantee's authorized capital stock which results in the dilution of the stockholdings of the Grantee's then existing stockholders; *PROVIDED HOWEVER*, THAT NO MERGER WITH ANY OTHER COMPANY OR ENTITY, OR TRANSFER OR ALIENATION OF THE CONTROLLING INTEREST OF THE GRANTEE, WHETHER IN WHOLE OR IN PART, AND WHETHER, TO ANY PERSON, FIRM, COMPANY OR ENTITY, SHALL TAKE EFFECT WITHOUT THE PRIOR APPROVAL OF THE CONGRESS OF THE PHILIPPINES: ; *Provided, moreover*, That the [foregoing] limitation PROVIDED IN THE FIRST SENTENCE OF THIS SECTION shall not apply to any transfer, sale or issuance of shares of stock at the level of corporate stockholders of the Grantee; *Provided, furthermore*; That the foregoing limitations shall not apply in case of assignment or transfer of the operation of any of its related business [such as but not limited to , telecommunications business] to another entity. *Provided, however*, That

any such transfer, sale or issuance at the level of the corporate stockholders of the Grantee is in accordance with applicable constitutional limitations; *Provided, finally*, that any person or entity to which such shares is sold, transferred or assigned, under this Act shall be subject to the same conditions and limitations of this Act."

SEC. 3. Section 9 of Republic Act No. 9511 is hereby amended to read as follows:

"SEC. 9. Tax Provision. – In consideration of the franchise and rights hereby granted, the grantee, its successors or assigns, shall [pay a franchise tax equivalent to three percent (3%) of all gross receipts derived by the Grantee from its operation under this franchise. Said tax shall in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted: *Provided*. That the Grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay: *Provided, further*, That payment by Grantee of the concession fees due to PSALM under the concession agreement shall not be subject to income tax and value-added tax (VAT).] BE SUBJECT TO THE PAYMENT OF ALL

TAXES . DUTIES, FEES OR CHARGES AND OTHER IMPOSITIONS UNDER THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997 AS AMENDED, AND OTHER APPLICABLE LAWS: *PROVIDED* THAT NOTHING HEREIN SHALL BE CONSTRUED AS REPEALING ANY SPECIFIC TAX EXEMPTIONS, INCENTIVES OR PRIVILEGES GRANTED UNDER ANY RELEVANT LAWS: *PROVIDED, FURTHER*, THAT ALL RIGHTS, BENEFITS AND EXEMPTIONS ACCORDED TO EXISTING AND FUTURE PRIVATE ELECTRIC UTILITIES BY THEIR RESPECTIVE FRANCHISES SHALL LIKEWISE BE GRANTED TO THE GRANTEE."

SEC. 4. All laws, decrees, orders, regulations, instructions and rules and regulations or parts thereof, which are inconsistent with this Act, are hereby deemed repealed or modified.

SEC. 5. This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation in the Philippines

Approved.