

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
THIRD REGULAR SESSION



2521

COMMITTEE REPORT NO. _____

Submitted by the Committee on Legislative Franchises on 12 DEC 2012

Re : House Bill No. 6757

Recommending approval, in substitution of House Bill No. 6042

Sponsors: Representatives Marcelino "Marcy" R. Teodoro, Randolph S. Ting and
Carlos M. Padilla

MR. SPEAKER:

The Committee on Legislative Franchises to which was referred House Bill
No. 6042, introduced by Rep. Randolph S. Ting, entitled:

"AN ACT GRANTING THE WE ARE IT PHILIPPINES, INC. A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN
TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES"

has considered the same and recommends that the attached House Bill No.
6757, entitled:

"AN ACT GRANTING THE WE ARE IT, INC. A FRANCHISE TO CONSTRUCT,
INSTALL, ESTABLISH, OPERATE AND MAINTAIN TELECOMMUNICATIONS
SYSTEMS THROUGHOUT THE PHILIPPINES"

Page 2 of 2

Committee Report on the application of We Are It, Inc.

Authored by Rep. Randolph S. Ting

be approved in substitution of House Bill No. 6042 with Reps. Randolph S. Ting, Carlos M. Padilla and Marcelino "Marcy" C. Teodoro as authors thereof.

Respectfully submitted:



MARCELINO "MARCY" R. TEODORO

Chairman

Committee on Legislative Franchises

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY

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Quezon City

FIFTEENTH CONGRESS
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6757

House Bill No. _____

Introduced by Reps. Randolp S. Ting, Carlos M. Padilla and Marcelino R. Teodoro

AN ACT
GRANTING THE WE ARE IT, INC. A FRANCHISE TO CONSTRUCT, INSTALL,
ESTABLISH, OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEMS
THROUGHOUT THE PHILIPPINES

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

1 SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions of the
2 1987 Philippine Constitution and applicable laws, rules and regulations, there is
3 hereby granted to We Are IT, Inc., hereunder referred to as the Grantee, its
4 successors or assigns, a franchise to construct, install, establish, operate and
5 maintain for commercial purposes and in the public interest, in the Philippines, wire
6 and/or wireless telecommunications systems, including but not limited to mobile,
7 cellular, paging, fiber optics, multi-channel multi-point distribution system (MMDS),
8 local multi-point distribution system (LMDS), satellite transmit and receive systems,
9 switches, and their value-added services such as, but not limited to, transmission of
10 voice, data, facsimile, control signs, audio and video, information services bureau
11 and all other telecommunications systems technologies as are at present available
12 or will be made available through technological advances or innovations in the
13 future; and/or construct, acquire, lease and operate or manage transmitting and
14 receiving stations, lines, cables or systems as are convenient or essential to
15 efficiently carry out the purpose of this franchise.

1 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or
2 facilities of the grantee shall be constructed and operated in a manner as will, at
3 most, result only in the minimum interference on the wavelengths or frequencies of
4 existing stations or other stations which may be established by law, without in any
5 way diminishing its own right to use its selected wavelengths or frequencies and the
6 quality of transmission or reception thereon as should maximize rendition of the
7 grantee's services and/or availability thereof.

8 SEC.3. *Authority of the National Telecommunications Commission (NTC).* –
9 The grantee shall secure from the NTC a Certificate of Public Convenience and
10 Necessity or the appropriate permits and licenses for the construction, installation
11 and operation of its telecommunications systems/facilities. In issuing the certificate,
12 the NTC shall have the power to impose such conditions relative to the construction,
13 operation, maintenance, or service level of the telecommunications system. The
14 NTC shall have the authority to regulate the construction and operation of its
15 telecommunications systems. The grantee shall not use any frequency in the radio
16 spectrum without authorization from the NTC. Such certificate shall state the areas
17 covered and date the grantee shall commence the service. The NTC, however, shall
18 not unreasonably withhold or delay the grant of any such authority, permits or
19 licenses.

20 SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and
21 maintaining poles or other supports for said wires or other conductors for the
22 purpose of laying and maintaining underground wires, cables or other conductors, it
23 shall be lawful for the grantee, its successors or assigns, with the prior approval of
24 the Department of Public Works and Highways (DPWH) or the local government unit
25 concerned, as may be appropriate, to make excavations or lay conduits in any of the
26 public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said
27 province, cities and/or municipalities: *Provided, however,* That a public place,
28 highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed
29 by reason of erection of poles or other supports or the underground laying of wires,
30 other conductors or conduits, shall be repaired and replaced in workmanlike manner

1 by said grantee, its successors or assigns, in accordance with the standards set by
2 DPWH or the local government unit concerned. Should the grantee, its successors
3 assigns, after the ten (10) day notice from the said authority, fail, refuse or neglect to
4 repair or replace any part of public place, road, highway, street, lane, alley, avenue,
5 sidewalk or bridge altered, changed or disturbed by the said grantee, its successors
6 or assigns, then the DPWH or the local government unit concerned shall have the
7 right to have the same repaired and placed in good order and condition at double
8 expense to be charged against the grantee, its successors or assigns.

9 SEC. 5. *Responsibility to the Public.* - The grantee shall conform to the ethics
10 of honest enterprise and not use its stations/facilities for obscene or indecent
11 transmission or for dissemination of deliberately false information or willful
12 misrepresentation, or assist in subversive or treasonable acts.

13 The grantee shall provide basic or enhanced telephone service in any city
14 and/or municipality in the Philippines where it has an approved Certificate of Public
15 Convenience and Necessity for the establishment, operation and maintenance of a
16 local exchange service, without discrimination to any applicant therefor, in the order
17 of the date of their applications, up to the limit of the capacity of its local telephone
18 exchange, and should the demand for the telephone service at any time increase
19 beyond the capacity thereof, the grantee shall increase the same to meet such
20 demand: *Provided*, That in case the total demand to be satisfied by the expansion is
21 less than the smallest viable local exchange available in the market as determined
22 by the Commission, the grantee shall not be obliged to furnish such service unless
23 the applicant for telephone service defrays the actual expenses for the installation of
24 the telecommunications apparatus necessary for such services and in such case, the
25 Commission may extend the time within which the grant shall furnish such service.

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

1 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications
2 services of the grantee, except the rates and charges on those that may hereafter be
3 declared or considered as non-regulated services, whether flat rates or measured
4 rates or variation thereof, shall be subject to the approval of the Commission or its
5 legal successor. The rates to be charged by the grantee shall be unbundled,
6 separable and distinct among the services offered and shall be determined in such a
7 manner that regulated services do not subsidize the unregulated ones.

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

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

20 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period of
21 twenty-five (25) years from the date of effectivity of this Act, unless sooner cancelled.
22 This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to
23 comply with any of the following conditions:

24 (a) Commence operations within one (1) year from the approval of its operating
25 permit by the National Telecommunications Commission;

26 (b) Commence operations within three (3) years from the effectivity of this Act;
27 and

1 (c) Operate continuously for two (2) years

2 SEC. 9. *Acceptance and Compliance.* – Acceptance of this franchise shall be
3 given in writing to the Congress of the Philippines, through the Committee on
4 Legislative Franchises of the House of Representatives and the Committee on Public
5 Services of the Senate within sixty (60) days from the effectivity of this Act. Upon
6 giving such acceptance, the grantee shall exercise the privileges granted under this
7 Act. Non-acceptance shall render the franchise void.

8 SEC. 10. *Bond.* - The grantee shall file a bond with the NTC in the amount that it
9 shall determine to guarantee compliance with and fulfillment of the conditions under
10 which this franchise is granted. If after three (3) years from the date of the approval
11 of its permit by the NTC, the grantee shall have fulfilled the conditions, the bond shall
12 be cancelled by the NTC. Otherwise, the bond shall be forfeited in favor of the
13 government and the franchise *ipso facto* revoked.

14 SEC. 11. *Right of Interconnection.* – The grantee is hereby authorized to
15 connect or demand connection of its telecommunications systems to other
16 telecommunications systems installed, operated and maintained by any other duly
17 authorized person or entity in the Philippines for the purpose of providing extended
18 and improved telecommunications services to the public, under such terms and
19 conditions mutually agreed upon by the parties concerned. The terms and conditions
20 shall be subject to the review and modification of the NTC.

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

26 SEC. 13. *Books and Accounts.* – The books and accounts of the grantee, its
27 successor or assigns, shall always be open to the inspection of the NTC on Audit
28 (COA) and its duly-authorized representatives. It shall be the duty of the grantee to

1 submit to the COA two (2) copies of the quarterly reports on the gross receipts, the
2 net profits and the general condition of the business.

3 SEC. 14. *Warranty in Favor of the National and Local Governments.* - The
4 grantee shall hold the national, provincial, city and municipal governments of the
5 Philippines free from all claims, accounts, demands or actions arising out of
6 accidents or injuries, whether to property or to persons, caused by the construction
7 or operation of the stations, transmitters, facilities and equipment of the grantee.

8 SEC. 15. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* - The
9 grantee shall not sell, lease, transfer, grant the usufruct of, or assign this franchise or
10 the rights and privileges acquired thereunder to any person, firm, company,
11 corporation or other commercial or legal entity, or merge with any other corporation
12 or entity, or shall transfer the controlling interest of the grantee, whether as a whole
13 or in parts and whether simultaneously or contemporaneously, to any such person,
14 firm, company, corporation or entity without the prior approval of the Congress of the
15 Philippines: *Provided*, That Congress shall be informed of any sale, lease, transfer,
16 grant of usufruct, or assignment of franchise or the rights or privileges acquired
17 within sixty (60) days after the completion of said transaction: *Provided, further*, That
18 failure to report to Congress such change of ownership shall render the franchise
19 *ipso facto* revoked: *Provided, finally*, That any person or entity to which this franchise
20 is sold, transferred or assigned, shall be subject to the same conditions, terms,
21 restrictions and limitations of this Act.

22 SEC. 16. *Dispersal of Ownership.* - In accordance with the constitutional
23 provision to encourage public participation in public utilities, the grantee shall offer to
24 Filipino citizens at least thirty per centum (30%) or a higher percentage that may
25 hereafter be provided by law of its outstanding capital stock in any securities
26 exchange in the Philippines within five (5) years from the commencement of its
27 operations. *Provided*, That in cases where public offer of shares is not applicable,
28 establishment of cooperatives and other methods of encouraging public participation
29 by citizens and corporations operating public utilities must be implemented.
30 Noncompliance therewith shall render the franchise *ipso facto* revoked.

1 SEC. 17. *Reportorial Requirement.* – The grantee shall submit an annual
2 report to the Congress of the Philippines, through the Committee on Legislative
3 Franchises of the House of Representatives and the Committee on Public Services
4 of the Senate, on its compliance with the terms and conditions of the franchise and
5 on its operations on or before April 30 of the succeeding year.

6 SEC. 18. *Penalty Clause* – Any grantee who fails to submit the requisite
7 Annual Report to Congress shall be fined Five Hundred Pesos (P500.00) per
8 working day of non-compliance. The fine shall be collected by the NTC from said
9 delinquent franchise grantee separate from the reportorial penalties to be imposed
10 by NTC. All proceeds from said fines or penalties shall accrue to the monitoring fund
11 of the NTC in line with its supervisory and regulatory functions. The reportorial
12 compliance certificate issued by Congress shall be required before any application
13 for permit or certificate is accepted by NTC.

14 SEC. 19. *Equality Clause.* – Any advantage, favor, privilege, exemption, or
15 immunity granted under other existing franchise, or which may hereafter be granted,
16 upon prior review and approval of Congress, shall become part of this franchise and
17 shall be accorded immediately and unconditionally to the herein grantee: *Provided,*
18 *however,* That the foregoing shall neither apply to nor affect provisions of
19 telecommunications franchises concerning territory covered by the franchise, the life
20 span of the franchise or the type of service authorized by the franchise.

21 SEC. 20. *Separability Clause.* – If any of the sections or provisions of this Act
22 is held invalid, all other provisions not affected thereby shall remain valid.

23 SEC. 21. *Repealability and Non-exclusivity Clause.* – This franchise shall be
24 subject to amendment, alteration, or repeal by the Congress of the Philippines when
25 the public interest so requires and shall not be interpreted as an exclusive grant of
26 the privilege herein provided for.

1 SEC. 22. *Publication.* This Act shall be published, through the initiative of the
2 grantee, fifteen (15) days after this Act is signed by the President of the Philippines
3 or has lapsed into law.

4 SEC. 23. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from
5 the date of its publication in at least two (2) newspapers of general circulation in the
6 Philippines.

7 Approved,