

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th CONGRESS
First Regular Session

House Bill No. 2185



Sponsored by:

REP. RANEO E. ABU
2nd District, Batangas

REP. MARK LLANDRO L. MENDOZA
4th District, Batangas

REP. NELSON P. COLLANTES
3rd District, Batangas

EXPLANATORY NOTE

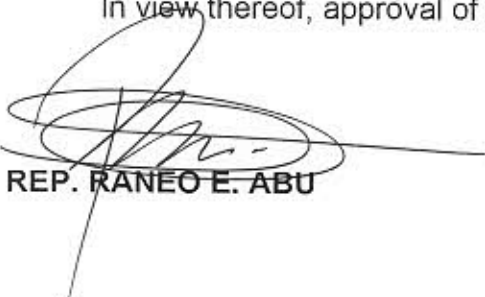
Under the 1987 Philippine Constitution, the grant of franchise to a public utility company emanates from Congress.

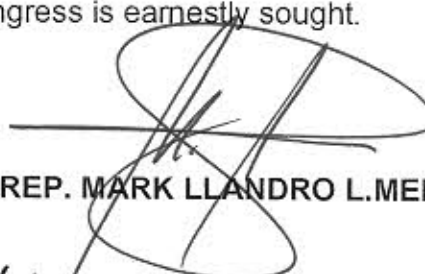
Republic Act 7160, otherwise known as the 1991 Local Government Code, under Section 17 thereof provides that local government units (LGUs) shall exercise powers and discharge functions and responsibilities as are necessary, appropriate or incidental to efficient and effective delivery of basic services and facilities to the constituents. Providing better and reliable electric power system that will cater to the demand of people in the municipality is the current endeavor of the Municipality of Bauan in the Province of Batangas.

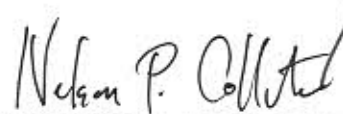
In line of the foregoing, the Sangguniang Bayan (SB), on July 20, 2012, passed a Resolution endorsing the application of First Bay Power (FBPC) Corp. to construct, operate and maintain a distribution system for the conveyance of electric power to the constituents of the Municipality of Bauan. Copy of which is attached as Annex "A".

This bill has already been filed by Representative Hermilando I. Mandanas during the 15th Congress as House Bill No. 6724. It has passed the Third Reading and was transmitted to the Senate of the Philippines. However due to lack of material time, in view of the adjournment of session to pave way for the 2013 Elections, the said bill was not acted upon accordingly.

In view thereof, approval of this bill this 16th Congress is earnestly sought.


REP. RANEO E. ABU


REP. MARK LLANDRO L. MENDOZA


REP. NELSON P. COLLANTES



Republic of the Philippines
Province of Batangas
Municipality of Bauan
OFFICE OF THE SANGGUNIANG BAYAN



HON. RYANH M. DOLOR
Mayor

HON. JUAN M. MAGBOO, LL.B.
Vice Mayor
Presiding Officer

HON. KELVIN REX D. GIMENO
Municipal Councilor
Chairman, Committee on Tourism, Culture
And Arts

HON. JEROME ALVIN B. MONILLA
Municipal Councilor
Chairman, Committee on Labor, Trade,
Commerce and Industry
Transportation and
Communication

HON. PRESNEY N. BACAL
Municipal Councilor
Chairman, Committee on Health,
Environment and Sustainable Dev't
Market, Slaughterhouse and
Economic Enterprises

HON. HERMINIO M. DOLOR
Municipal Councilor
Chairman, Committee on Appropriations
Public Safety and Order
Education

HON. WILLIAM C. ABRAHAN
Municipal Councilor
Chairman, Committee on Ways & Means
Senior Citizens and Welfare of
People with Disabilities
Sisterhood

HON. JULIAN C. CASAPAO
Municipal Councilor
Chairman, Committee on Agriculture,
Cooperative and Livelihood Dev't
Engineering, Infrastructure,
Public Works and Land Use
Public Utilities & Water System

HON. NEIL P. VALDEZ
Municipal Councilor
Chairman, Committee on Rules, Ordinances
And Legal Matters
Oversight and Legislative Affairs

HON. YANILLE A. DALANGIN
Municipal Councilor
Chairman, Committee on Women, Children
and Family Affairs
Human Rights and Ethics
Gender Development

HON. REYNALDO M. ABRAHAM
ABC Vice President
Acting ABC President
Ex-Officio SB Member
Chairman, Committee on Barangay Affairs
Games and Amusement
Tricycle Franchise

HON. VENICE ROSE A. BRUAL
SK Federation President
Chairman, Committee on Youth, Awards
And Sports Development

FERDINAND M. AGENA
SB Secretary

**EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION OF
THE SANGGUNIANG BAYAN HELD AT THE KNIGHTS OF
COLUMBUS HALL ON JULY 20, 2012 AT 10:00 A.M.**

PRESENT:

HON. NEIL P. VALDEZ	...	SB Member
HON. KELVIN REX D. GIMENO	...	and Acting SB Presiding Officer
HON. JEROME ALVIN B. MONILLA	...	SB Member
HON. PRESNEY N. BACAL	...	"
HON. HERMINIO M. DOLOR	...	"
HON. WILLIAM C. ABRAHAN	...	"
HON. JULIAN C. CASAPAO	...	"
HON. YANILLE A. DALANGIN	...	"
HON. REYNALDO M. ABRAHAM	...	SB Member, Acting ABC President, ABC Vice President

ABSENT:

HON. JUAN M. MAGBOO, LL.B.	...	Municipal Vice Mayor
HON. VENICE ROSE A. BRUAL	...	SB Member, President SK Federation

On motion of Hon. William C. Abrahan, duly seconded by Hon. Julian C. Casapao, Hon. Presney N. Bacal and Hon. Kelvin Rex D. Gimeno, the following resolution is declared approved by the Hon. SB Member and Acting SB Presiding Officer, Neil P. Valdez. To wit:

RESOLUTION NO. 12-07-0541

**APPROVING THE REQUEST OF THE HONORABLE MUNICIPAL
MAYOR RYANH M. DOLOR AND INTERPOSED NO OBJECTION TO THE
ENDORSEMENT OF FIRST BAY POWER CORPORATION IN CONNECTION
WITH ITS FRANCHISE APPLICATION "TO CONSTRUCT, OPERATE AND
MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF
ELECTRIC POWER TO THE END-USERS IN THE
MUNICIPALITY OF BAUAN, PROVINCE OF BATANGAS"
(SPONSORS: HON. JULIAN C. CASAPAO,
HON. WILLIAM C. ABRAHAN and HON. NEIL P. VALDEZ)**

WHEREAS, First Bay Power Corporation has requested for an endorsement of its application for the issuance of a Franchise to construct, operate and maintain a distribution system for the conveyance of electric power to the end-users in the Municipality of Bauan, Province of Batangas;

WHEREAS, the Hon. Ryan M. Dolor, Municipal Mayor of Bauan, Batangas, has favorably endorsed such application of First Bay Power Corporation;

WHEREAS, the members of the Sangguniang Bayan acknowledged the efforts of First Bay Power Corporation in the rehabilitation of the electric distribution services in the Municipality of Bauan which effectively reduced systems loss, ensuring orderly and disciplined billing and collection of electric consumption payments, improve power quality and reliability, and ensuring fair and just rates to its electric consumers;

*Excerpts from the Minutes
of the Session...*

HON. RYANH M. DOLOR
Mayor

HON. JUAN M. MAGBOO, LL.B.
Vice Mayor
Presiding Officer

HON. KELVIN REX D. GIMENO
Municipal Councilor
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FERDINAND M. AGENA
SB Secretary

*Excerpts from the Minutes
Of the Regular Session
July 20, 2012
Page 2 of 2 Pages*

WHEREAS, the members of the Sangguniang Bayan also acknowledged the importance of First Bay Power Corporation's continuance of its electric distribution service thereby rebounding to the economic and social benefits of the electric consumers of the Municipality of Bauan;

WHEREAS, Section 17(3) of the Local Government Code mandates the LGU to exercise power and discharge such other functions and responsibilities as are necessary, appropriate or incidental to efficient and effective governance such as providing their constituents the basic services and facilities;

WHEREAS, it is the desire of the Municipality of Bauan to respond to this by endorsing a catalytic entity that has proven itself to provide stable and steadfast power needs to the people of Bauan in general;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED that the Sangguniang Bayan hereby approved the request of the Honorable Municipal Mayor Ryanh M. Dolor and interposed no objection to the endorsement of First Bay Power Corporation in connection with its Franchise Application "To Construct, Operate And Maintain A Distribution System For The Conveyance Of Electric Power To The End-Users In The Municipality Of Bauan, Province Of Batangas".

Approved – July 20, 2012

CERTIFICATION

This is to certify that the foregoing Resolution Numbered 12-07-0541 had been duly approved by the members of the Sangguniang Bayan on July 20, 2012 during the regular session at the Knights of Columbus Hall.


FERDINAND M. AGENA
SB Secretary

ATTEST:

NEIL P. VALDEZ
Municipal Councilor and
Acting SB Presiding Officer

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th CONGRESS

First Regular Session

House Bill No. **2185**

Introduced by:

REP. RANEO E. ABU
2nd District, Batangas

REP. MARK LLANDRO L. MENDOZA
4th District, Batangas

REP. NELSON P. COLLANTES
3rd District, Batangas

AN ACT

GRANTING THE FIRST BAY POWER (FBPC) CORP. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE MUNICIPALITY OF BAUAN, PROVINCE OF BATANGAS.

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 1987
2 Philippine Constitution and applicable laws, rules and regulations, there is hereby granted to
3 First Bay Power Corporation, hereunder referred to as the grantee, its successors or assigns, a
4 franchise to construct, install, establish, operate and maintain for commercial purposes and in
5 the public interest, a distribution system for the conveyance of electric power to the end-users
6 in the Municipality of Bauan, Province of Batangas.

7
8 As used in this Act, distribution system refers to the systems of wires and associated
9 facilities including sub-transmission lines belonging to a franchised distribution utility extending
10 between the delivery point on the national transmission system or generating facility and the
11 metering point/facility of the end-user.

12 SEC. 2. *Manner of Operation of Facilities.* - All electric distribution facilities, lines and
13 systems for electric services owned, maintained, operated or managed by the grantee, its
14 successors or assigns, shall be operated and maintained at all times in a superior manner, and
15 it shall be the duty of the grantee, its successors or assigns, whenever required to do so by the
16 Energy Regulatory Commission, hereinafter referred to as the ERC, or its legal successor, or
17 the Department of Energy, hereinafter referred to as DOE, or its legal successor, or any other
18 government agency concerned, to modify, improve and change such facilities or systems in

1 such a manner and to such extent as the progress in science and improvements in the electric
2 power services may render reasonable and proper.

3
4 Whenever practicable and for purposes of maintaining order, safety and aesthetics
5 along highways, roads, streets, alleys or right-of-way, the grantee may allow the use of free
6 spaces in its poles, facilities or right-of-way by interested parties upon reasonable
7 compensation to the grantee considering cost incurred to accommodate and administer the use
8 of the grantee's facilities by such parties. The ERC shall decide in case of dispute or
9 disagreement between parties.

10
11 SEC. 3. *Authority of the ERC/DOE.* – The grantee shall secure from the ERC/DOE or
12 any other government agency which has jurisdiction over the operation of the herein grantee,
13 the necessary certificate of public convenience and necessity and other appropriate permits
14 and licenses for the construction and operation of its electric distribution system.

15 SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and
16 maintaining poles, pipes and other supports for said wires or other conductors for the purpose
17 of laying and maintaining said facilities, wires, cables, pipes or other conductors, it shall be
18 lawful for the grantee, its successors or assigns, with the prior approval of the Department of
19 Public Works and Highways (DPWH) or the local government unit concerned, as may be
20 appropriate, to make excavations or lay conduits in any of the public places, highways, streets,
21 lanes, alleys, avenues, sidewalks or bridges of said province, cities and/or municipalities:
22 *Provided, however,* That a public place, highway, street, lane, alley, avenue, sidewalk or bridge
23 disturbed, altered or changed by reason of erection of poles or other supports or the
24 underground laying of wires, other conductors or conduits, shall be repaired and replaced in
25 workmanlike manner at the expense of the grantee, its successors or assigns, in accordance
26 with the standards set by DPWH or the local government unit concerned. Should the grantee,
27 its successors assigns, after the ten (10) day notice from the said authority, fail, refuse or
28 neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue,
29 sidewalk or bridge altered, changed or disturbed by the said grantee, its successors or assigns,
30 then the DPWH or the local government unit concerned shall have the right to have the same
31 repaired and placed in good order and condition at double expense to be charged against the
32 grantee, its successors or assigns.

33
34 SEC. 5. *Responsibility to the Public.* - The grantee shall supply electricity to its captive
35 market in the least costly manner. In the interest of the public good and as far as feasible and
36 whenever required by the ERC, the grantee shall modify, improve or change its facilities, poles,

1 lines systems and equipment for the purpose of providing efficient and reliable service and
2 reduced electricity costs. The grantee shall charge reasonable and just power rates for its
3 services to all types of consumers within its franchised areas in order that business and
4 industries shall be able to compete.

5
6 The grantee shall have the obligation to provide open and non-discriminatory access to
7 its distribution system and services for any end-user within its franchise area consistent with
8 Republic Act No. 9136, otherwise known as 'Electric Power Industry Reform Act of 2001. The
9 grantee shall not engage in any activity that will constitute an abuse of market power such as,
10 but not limited to, unfair trade practices, monopolistic schemes and any other activities that will
11 hinder competitiveness of business and industries.

12
13 SEC 6. *Rates for Services* - The retail rates and charges for the distribution of electric
14 power by the grantee to its end-user shall be regulated by and subject to the approval of the
15 ERC or its legal successor.

16
17 The grantee shall identify and segregate in its electricity bill to the end-users the
18 components of the retail rate pursuant to Republic Act No. 9136, unless otherwise amended.
19 Such rates charged by the grantee to the end-users shall be made public and transparent. The
20 grantee shall implement lifeline rate to marginalized end-users as mandated under Republic Act
21 No. 9136.

22
23 SEC. 7. *Promotion of Consumer Interests* - The herein grantee shall establish a
24 consumer desk that will handle consumer complaints and ensure adequate promotion of
25 consumer interests. The grantee shall act with dispatch on all complaints brought before it.

26 SEC. 8. *Right of the Government*. - A special right is hereby reserved to the President
27 of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or
28 disturbance of peace and order, to temporarily take over and operate the stations or facilities of
29 the grantee, to temporarily suspend the operation of any station or facility in the interest of
30 public safety, security and public welfare, or to authorize the temporary use and operation
31 thereof by any agency of the government, upon due compensation to the grantee, for the use of
32 said stations or facilities during the period when they shall be so operated.

33
34 SEC. 9. *Right of Eminent Domain* – Subject to the limitations and procedures prescribed
35 by law, the grantee is authorized to exercise the right of eminent domain insofar as it may be
36 reasonably necessary for the efficient maintenance and operation of services. The grantee is

1 authorized to install and maintain its poles, wires and other facilities over and across public
2 property, including streets, highways, forest reserves and other similar property of the
3 Government of the Philippines, its branches or any of its instrumentalities. The grantee may
4 acquire such private property as is actually necessary for the realization of the purposes for
5 which this franchise is granted: *Provided*, That proper condemnation proceedings shall have
6 been instituted and just compensation paid.

7
8 SEC. 10. *Term of Franchise* – This franchise shall be in effect for a period of twenty-five
9 (25) years from the date of effectivity of this Act, unless sooner cancelled. This franchise shall
10 be deemed *ipso facto* revoked in the event the grantee fails to operate continuously for two (2)
11 years.

12
13 SEC. 11. *Acceptance and Compliance*. - Acceptance of this franchise shall be given in
14 writing to the Congress of the Philippines, through the Committee on Legislative Franchises of
15 the House of Representatives and the Committee on Public Services of the Senate within sixty
16 (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall
17 exercise the privileges granted under this Act. Non-acceptance shall render the franchise void.

18
19 SEC. 12. *Warranty in Favor of the National and Local Governments*. - The grantee shall
20 hold the national, provincial, city and municipal governments of the Philippines free from all
21 claims, accounts, demands or actions arising out of accidents or injuries, whether to property or
22 to persons, caused by the construction, installation, operation and maintenance of the
23 distribution system of the grantee.

24
25 SEC. 13. *Liability to Damages* – The grantee shall be liable for any injury and damage
26 arising from or caused by accident to persons and property by reason of any defective
27 construction under this franchise or of any neglect or omission to keep its pole and wires in safe
28 condition.

29
30 SEC. 14. *Sale, Lease, Transfer, Usufruct, Etc.* - The grantee shall not sell, lease,
31 transfer, grant the usufruct of, or assign this franchise or the rights and privileges acquired
32 thereunder to any person, firm, company, corporation or other commercial or legal entity, or
33 merge with any other corporation or entity, or shall transfer the controlling interest of the
34 grantee, whether as a whole or in parts and whether simultaneously or contemporaneously, to
35 any such person, firm, company, corporation or entity without the prior approval of the
36 Congress of the Philippines: *Provided*, That Congress shall be informed of any lease, transfer
37 granting the usufruct of, sale or assignment of franchise or the rights or privileges acquired

1 within sixty (60) days after the completion of said transaction: *Provided also*, That any such
2 transfer, sale or assignment is in accordance with the constitutional limitations: *Provided*
3 *further*, That failure to report to Congress such change of ownership shall render the franchise
4 *ipso facto* revoked: *Provided finally*, That any person or entity to which this franchise is sold,
5 transferred or assigned, shall be subject to the same conditions, terms, restrictions and
6 limitations of this Act.

7 SEC. 15. *Dispersal of Ownership*. – In accordance with the constitutional provision to
8 encourage public participation in public utilities, the grantee shall offer to Filipino citizens at
9 least thirty percentum (30%) of its outstanding capital stock or a higher percentage that may
10 hereafter be provided by law in any securities exchange in the Philippines within five (5) years
11 from the commencement of its operations: *Provided*, That in cases where public offer of shares
12 is not applicable, establishment of cooperatives and other methods of encouraging public
13 participation by citizens and corporations operating public utilities must be implemented. Non-
14 compliance therewith shall render the franchise *ipso facto* revoked.

15
16 SEC. 16. *Reportorial Requirement*. – The grantee shall submit an annual report to the
17 Congress of the Philippines, through the Committee on Legislative Franchises of the House of
18 Representatives and the Committee on Public Services of the Senate, on its compliance with
19 the terms and conditions of the franchise and on its operations on or before April 30 of the
20 succeeding year.

21
22 SEC. 17. *Penalty Clause*. – Any grantee who fails to submit the requisite Annual
23 Report to Congress shall be fined Five Hundred Pesos (P500.00) per working day of non-
24 compliance. The fine shall be collected by the ERC from said delinquent franchise grantee
25 separate from the reportorial penalties imposed by ERC. All proceeds from said fines or
26 penalties shall accrue to the monitoring fund of the ERC in line with its supervisory and
27 regulatory functions. The reportorial compliance certificate issued by Congress shall be
28 required before any application for permit or certificate is accepted by ERC.

29
30 SEC. 18. *Equality Clause*. – Any advantage, favor, privilege, exemption, or immunity
31 granted under existing franchise, or which may hereafter be granted, upon prior review and
32 approval of Congress, shall become part of this franchises and shall be accorded immediately
33 and unconditionally to the herein grantee: *Provided, however*, That the foregoing shall neither
34 apply to nor affect provisions concerning territory covered by the franchise, the life span of the
35 franchise or the type of service authorized by the franchise: *Provided, further*, That the

1 foregoing shall not apply to the sale, lease, transfer , grant of usufruct or assignment of
2 legislative franchises with prior congressional approval.

3
4 SEC.19. *Applicability Clause.* – The grantee shall comply with and be subject to the
5 provisions of Commonwealth Act No. 146, as amended, otherwise known as the 'Public Service
6 Act' and Republic Act No. 9136, otherwise known as the 'Electric Power Industry Reform Act of
7 2001.

8
9 SEC. 20. *Separability Clause.* – If any of the sections or provisions of this Act is held
10 invalid, all other provisions not affected thereby shall remain valid.

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

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

17
18 SEC. 23 *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of
19 its publication in at least two (2) newspapers of general circulation in the Philippines.

20 Approved,