

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS

First Regular Session



Begun and held in Metro Manila, the twenty-second day of July, two thousand and thirteen

House Bill No. **3187**

INTRODUCED BY REPRESENTATIVE BAI SANDRA SINSUAT A.
SEMA

EXPLANATORY NOTE

Electric power is a very important factor in the economic development, growth, and progress of local communities and the country as a whole. Economic development is essential to eradicate poverty and strengthen the security of the nation. To this end, Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA) was enacted to ensure the quality, reliability, security, and affordability of electric power supply.

We have Cotabato Light & Power Company (Cotabato Light) which is an electric distribution utility serving Cotabato City and portions of the municipalities of Datu Odin Sinsuat and Sultan Kudarat, both in the province of Maguindanao. For more than seventy years, Cotabato Light has been providing these areas with reliable electric power. Although a relatively small distribution utility, it has adopted world-class standards in electric power connection time and emergency response. The communities in its franchise area have enjoyed adequate electric power supply essential to the economic growth, well-being, and prosperity of the residents.

In the 1990s, while the rest of Mindanao was experiencing daily rotating power outages, Cotabato Light customers were provided with almost continuous power supply. The communities within Cotabato Light's franchise area survived the energy crisis through the services provided by this electric distribution utility.

Unfortunately, the franchise of Cotabato Light granted by Commonwealth Act No. 487, as amended, is due to expire on June 17, 2014. To ensure the continuous supply of electric power in Cotabato City and portions of the municipalities of Datu Odin Sinsuat and Sultan Kudarat in the Province of Maguindanao, it is important that the franchise of Cotabato Light & Power Company be renewed for another twenty-five (25) years. Since the franchise of this electric company will expire soon, early approval of this measure is earnestly sought.



BAI SANDRA SINSUAT A. SEMA

Representative

First District of Maguindanao

And Cotabato City

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House Bill No. **3187**

Introduced by **Rep. Bai Sandra A. Sema**

AN ACT

GRANTING COTABATO LIGHT & POWER COMPANY, A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITY OF COTABATO AND PORTIONS OF THE MUNICIPALITIES OF DATU ODIN SINSUAT AND SULTAN KUDARAT, BOTH IN THE PROVINCE OF MAGUINDANAO

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
2 of the 1987 Philippine Constitution and applicable laws, rules and regulations,
3 there is hereby granted to Cotabato Light & Power Company, hereunder referred
4 to as the grantee, its successors or assigns, a franchise to construct, install,
5 establish, operate and maintain for commercial purposes and in the public
6 interest, a distribution system for the conveyance of electric power to the end-
7 users in the City of Cotabato and portions of the Municipalities of Datu Odin
8 Sinsuat and Sultan Kudarat, both in the Province of Maguindanao.

9
10 SEC. 2. *Manner of Operation of Facilities.* – All electric distribution
11 facilities, lines and systems for electric services owned, maintained, operated or
12 managed by the grantee, its successors or assigns, shall be operated and
13 maintained at all times in a superior manner, and it shall be the duty of the
14 grantee, its successors or assigns, whenever required to do so by the Energy
15 Regulatory Commission, hereinafter referred to as the ERC, or its legal
16 successor, or the Department of Energy, hereinafter referred to as DOE, or its
17 legal successor, or any other government agency concerned, to modify, improve
18 and change such facilities or systems in such a manner and to such extent as the

1 progress in science and improvements in the electric power services may render
2 reasonable and proper.

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

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

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

1
2 SEC. 5. *Responsibility to the Public.* – The grantee shall supply electricity
3 to its captive market in the least costly manner. In the interest of the public good
4 and as far as feasible and whenever required by the ERC, the grantee shall
5 modify, improve or change its facilities, poles, lines systems and equipment for
6 the purpose of providing efficient and reliable service and reasonable electricity
7 costs. The grantee shall charge reasonable and just power rates for its services
8 to all types of consumers within its franchised areas in order that business and
9 industries shall be able to compete.

10
11 The grantee shall have the obligation to provide open and non-
12 discriminatory access to its distribution system and services for any end-user
13 within its franchise area consistent with Republic Act No. 9136, otherwise known
14 as "Electric Power Industry Reform Act of 2001," as may be amended from time
15 to time. The grantee shall not engage in any activity that will constitute an abuse
16 of market power such as, but not limited to, unfair trade practices, monopolistic
17 schemes and any other activities that will hinder competitiveness of business and
18 industries.

19
20 SEC. 6. *Rates for Services.* – The retail rates and charges for the
21 distribution of electric power by the grantee to its end-user shall be regulated by
22 and subject to the approval of the ERC or its legal successor.

23
24 The grantee shall identify and segregate in its electricity bill to the end-
25 users the components of the retail rate pursuant to Republic Act No. 9136,
26 unless otherwise amended. Such rates charged by the grantee to the end-users
27 shall be made public and transparent. The grantee shall implement lifeline rate
28 to marginalized end-users as mandated under Republic Act No. 9136.

29
30 SEC. 7. *Promotion of Consumer Interests.* – The herein grantee shall
31 establish a consumer desk that will handle consumer complaints and ensure
32 adequate promotion of consumer interests. The grantee shall act with dispatch
33 on all complaints brought before it.

34
35 SEC. 8. *Right of the Government.* – A special right is hereby reserved to
36 the President of the Philippines, in times of war, rebellion, public peril, calamity,
37 emergency, disaster or disturbance of peace and order, to temporarily take over

1 and operate the stations or facilities of the grantee, to temporarily suspend the
2 operation of any station or facility in the interest of public safety, security and
3 public welfare, or to authorize the temporary use and operation thereof by any
4 agency of the government, upon due compensation to the grantee, for the use of
5 said stations or facilities during the period when they shall be so operated.
6

7 SEC. 9. *Right of Eminent Domain.* – Subject to the limitations and
8 procedures prescribed by law, the grantee is authorized to exercise the right of
9 eminent domain insofar as it may be reasonably necessary for the efficient
10 maintenance and operation of services. The grantee is authorized to install and
11 maintain its poles, wires and other facilities over and across public property,
12 including streets, highways, forest reserves and other similar property of the
13 Government of the Philippines, its branches or any of its instrumentalities. The
14 grantee may acquire such private property as is actually necessary for the
15 realization of the purposes for which this franchise is granted: *Provided*, That
16 proper condemnation proceedings shall have been instituted and just
17 compensation paid.
18

19 SEC. 10. *Warranty in Favor of the National and Local Governments.* –
20 The grantee shall hold the national, provincial, city and municipal governments of
21 the Philippines free from all claims, accounts, demands or actions arising out of
22 accidents or injuries, whether to property or to persons, caused by the
23 construction, installation, operation and maintenance of the distribution system of
24 the grantee.
25

26 SEC. 11. *Liability to Damages.* – The grantee shall be liable for any injury
27 and damage arising from or caused by accident to persons and property by
28 reason of any defective construction under this franchise or of any neglect or
29 omission to keep its pole and wires in safe condition
30

31 SEC. 12. *Sale, Lease, Transfer, Usufruct, Etc.* – The grantee shall not
32 sell, lease, transfer, grant the usufruct of, or assign this franchise or the rights
33 and privileges acquired thereunder to any person, firm, company, corporation or
34 other commercial or legal entity, or merge with any other corporation or entity, or
35 shall transfer the controlling interest of the grantee, whether as a whole or in
36 parts and whether simultaneously or contemporaneously, to any such person,
37 firm, company, corporation or entity without the prior approval of the Congress of

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

10
11 SEC. 13. *Equality Clause.* – Any advantage, favor, privilege, exemption,
12 or immunity granted under existing franchise, or which may hereafter be granted,
13 upon prior review and approval of Congress, shall become part of this franchise
14 and shall be accorded immediately and unconditionally to the herein grantee:
15 *Provided, however*, That the foregoing shall neither apply to nor affect provisions
16 concerning territory covered by the franchise, the life span of the franchise or the
17 type of service authorized by the franchise: *Provided, further*, That the foregoing
18 shall not apply to the sale, lease, transfer, grant of usufruct or assignment of
19 legislative franchises with prior congressional approval.

20
21 SEC. 14. *Term of Franchise.* – This franchise shall be in effect for a
22 period of twenty-five (25) years from the date of expiration of the grantee's
23 franchise under Commonwealth Act 487, as amended, unless sooner cancelled.
24 This franchise shall be deemed *ipso facto* revoked in the event the grantee fails
25 to operate continuously for two (2) years.

26
27 SEC. 15. *Dispersal of Ownership.* – In accordance with the constitutional
28 provision to encourage public participation in public utilities, the grantee shall
29 offer to Filipino citizens at least thirty percentum (30%) of its outstanding capital
30 stock or a higher percentage that may hereafter be provided by law in any
31 securities exchange in the Philippines within five (5) years from the
32 commencement of its operations: *Provided*, That in cases where public offer of
33 shares is not applicable, establishment of cooperatives and other methods of
34 encouraging public participation by citizens and corporations operating public
35 utilities and/or in compliance with the requirements under Section 28 of Republic
36 Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of

1 2001," must be implemented. Non-compliance therewith shall render the
2 franchise *ipso facto* revoked.

3
4 SEC. 16. *Applicability Clause.* – The grantee shall comply with and be
5 subject to the provisions of Commonwealth Act No. 146, as amended, otherwise
6 known as the "Public Service Act" and Republic Act No. 9136, otherwise known
7 as the "Electric Power Industry Reform Act of 2001."

8
9 SEC. 17. *Reportorial Requirement.* – The grantee shall submit an annual
10 report to the Congress of the Philippines, through the Committee on Legislative
11 Franchises of the House of Representatives and the Committee on Public
12 Services of the Senate, on its compliance with the terms and conditions of the
13 franchise and on its operations on or before April 30 of the succeeding year.

14
15 SEC. 18. *Penalty Clause.* – Any grantee who fails to submit the requisite
16 Annual Report to Congress shall be fined Five Hundred Pesos (P500.00) per
17 working day of non-compliance. The fine shall be collected by the ERC from said
18 delinquent franchise grantee separate from the reportorial penalties imposed by
19 ERC. All proceeds from said fines or penalties shall accrue to the monitoring
20 fund of the ERC in line with its supervisory and regulatory functions. The
21 reportorial compliance certificate issued by Congress shall be required before
22 any application for permit or certificate is accepted by ERC.

23
24 SEC. 19. *Acceptance and Compliance.* – Acceptance of this franchise shall
25 be given in writing to the Congress of the Philippines, through the Committee on
26 Legislative Franchises of the House of Representatives and the Committee on
27 Public Services of the Senate within sixty (60) days from the effectivity of this Act.
28 Upon giving such acceptance, the grantee shall exercise the privileges granted
29 under this Act. Non-acceptance shall render the franchise void.

30
31 SEC. 20. *Separability Clause.* – If any of the sections or provisions of this
32 Act is held invalid, all other provisions not affected thereby shall remain valid.

33
34 SEC. 21. *Repealability and Non-exclusivity Clause.* – This franchise shall
35 be subject to amendment, alteration, or repeal by the Congress of the Philippines
36 when the public interest so requires and shall not be interpreted as an exclusive
37 grant of the privileges herein provided for.

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

5
6 SEC. 23. *Repealing Clause.* – All laws, decrees, orders, resolutions,
7 instructions and rules and regulations or parts thereof, which are inconsistent
8 with this Act, are hereby deemed repealed or modified accordingly.

9
10 SEC. 24. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
11 from the date of its publication in at least two (2) newspapers of general
12 circulation in the Philippines.

13
14 Approved,