

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
Second Regular Session

House Bill No. **3923**



Introduced by Honorable Rosendo "Dodoy" S. Labadlabad

EXPLANATORY NOTE

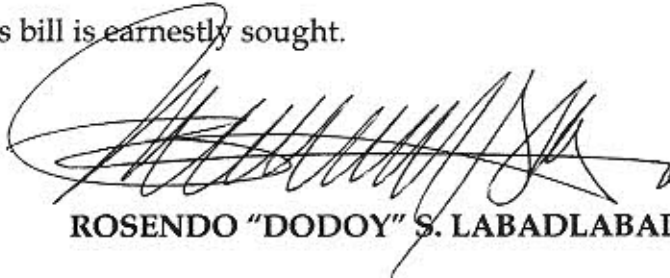
Article II of our Constitution, on State Policies provides that "the State Recognizes the vital role of communications and information in nation building". (Section 24).

It is in the light of this policy that the **MILLAWAVE SYSTEMS CORPORATION, (MILLAWAVE)** wholly owned and managed by Filipinos, has been, primarily conceived and formally organized. Imbued with strong enthusiasm and conscious of their material and technological resources and capabilities, the incorporators have concretized their plan and vision to contribute their share in the enhancement of the social and economic growth of the country through public information.

It is the primary aim of **MILLAWAVE SYSTEMS CORPORATION**, to bring about progress by utilizing broadcasting as its medium, given the fact that technology has become so advanced that global relations and national development are received and transmitted to a wide range of coverage at a very fast pace, and through digitalized data, information and news.

MILLAWAVE by this, is applying for a congressional franchise to install, operate and maintain radio and television broadcast station in the Philippines.

Hence the passage of this bill is earnestly sought.


ROSENDO "DODOY" S. LABADLABAD

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AN ACT

GRANTING THE MILLAWAVE SYSTEMS CORPORATION(MILLAWAVE) A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE FOR COMMERCIAL PURPOSES AND IN THE PUBLIC INTEREST, RADIO AND TELEVISION BROADCAST STATIONS IN THE PHILIPPINES.

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

SECTION 1. Nature and Scope of Franchise - Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to Millawave Systems Corporation (Millawave), hereunder referred to as the grantee, it's successors or assigns, a franchise to construct, establish, install, maintain and operate for commercial purposes and in the public interest, radio and television broadcast stations in the Philippines, utilizing the technological advances or innovations in the future; to originate, distribute, transmit, and receive through said systems, news, and documentaries, entertainment, informational and educational radio and television programs, both live and recorded; and to establish, construct, maintain and operate such other systems as are essential as convenient to carry out the purpose of this franchise.

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

SECTION 3. Authority of the National Telecommunications Commission. - The grantee shall secure from the National Telecommunications Commission (NTC), hereinafter referred to as the Commission, a certificate of public convenience and or the appropriate permits, and licenses for the location, construction, installation and operation of its broadcast stations. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance or service level

of the broadcast stations. The Commission shall have the authority to regulate the construction and operation of the said broadcast stations. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or license.

SECTION 4. Responsibility to the Public. - The grantee shall provide adequate public service line to enable the government through the said radio and television stations, to reach the population on important public issues; provide at all times sound and balanced programming, promote public participation such as in community programming; assist in the functions of public information and education; conform to the ethics of honest enterprise and shall not use its stations for the transmission of obscene or indecent language, speech, act, or scene, or for the dissemination of deliberately false information or willful misrepresentation to the detriment of the public interest or to incite, encourage, or assists in subversive or treasonable acts.

The grantee shall operate and maintain all its broadcast stations, and equipment for the transmission and reception of messages, signals and pulses in a satisfactory manner at all times, and as far as economical and practicable, modify, improve or change such operating equipment and facilities to keep abreast with the advances in science and technology.

SECTION 5. Right of Government - A special right is hereby reserved to the President of the Philippines in times of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace and order, to temporarily take over and operate the stations, transmitters, facilities or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility or equipment in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government, upon the compensation to the grantee for the use of said stations, transmitters, facilities or equipment during the period when they shall be so operated.

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

SECTION 6. Term of Franchise. - This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed ipso facto revoked, in the event the grantee fails to comply with any of the following conditions:

- (a) Commence operations within one (1) year from the approval of its operating permit or provisional authority by the NTC;
- (b) Operate continuously for two (2) years; and
- (c) Commence operations within three (3) years from the effectivity of this Act.

SECTION 7. Acceptance and Compliance. - Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

SECTION 8. Bond. - The grantee shall file a bond issued in favor of the National Telecommunications Commission, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If after three (3) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

SECTION 9. Tax Provisions. - The grantee, its successors or assigns, shall be subject to the payment of 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, benefits and exemptions accorded to existing and future broadcasting station franchises shall likewise be extended to the grantee.

The grantee shall file the return with the province where its facility is located, and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representatives in accordance with the NIRC and the return shall be subject to audit by the Bureau of Internal Revenue.

SECTION 10. Self Regulation by and Undertaking of Grantee - The grantee shall not require any previous censorship of any speech, play, act or scene or other matter to be broadcast from its station. *Provided*, that the grantee, during any broadcast, shall cut off from the air the speech, play, act or scene, or other matter being broadcast if the tendency thereof is to propose and /or incite treason, rebellion or sedition or the language use therein or the theme thereof is indecent or immoral and willful failure to do so shall constitute a valid cause for the cancellation of this franchise.

SECTION 11. Warranty in Favor of National and Local Governments. - The grantee shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

SECTION 12. Non Transferability of Franchise. - The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any corporation or entity, nor shall the controlling interest in the grantee be transferred, whether as a whole or in part and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitation of this Act.

SECTION 13. Dispersal of Ownership. - In accordance with the constitutional provisions to encourage public participation in the public utilities, the grantee shall offer at least thirty per centum (30%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law in any securities exchange in the Philippines within five (5) years from the time it has achieved the status of a national broadcasting network. A

"national broadcasting network" is hereby defined as one that operates three (3) or more radio and/or television stations. Non-compliance therewith shall render the franchise *ipso facto* revoked.

SECTION 14. Equality Clause. - Any advantages, favor, privileges, exemptions or immunity granted under existing franchises, or which maybe hereunder be granted for radio and/or television broadcasting, shall be *ipso facto* become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided, however,* That the foregoing shall neither apply to nor affect the provisions of the broadcasting franchises concerning territory covered by the franchise, the lifespan of the franchise or the type of service authorized by the franchise.

SECTION 15. General Broadcast Policy. - The grantee shall comply with and be subject to the provisions of a general broadcast policy law, which Congress may hereafter enact.

SECTION 16. - Reportorial Requirement. - The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and on its operations within sixty (60) days from the end of every year.

SECTION 17. Separability Clause. - If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby, shall remain valid.

SECTION 18. Repealability and Non-exclusivity Clause. - This franchise shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SECTION 19. Effectivity Clause. - This act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved.