

SIXTEENTH CONGRESS
OF THE REPUBLIC OF THE PHILIPPINES
Third Regular Session



HOUSE OF REPRESENTATIVES

House Bill No. **6003**

Introduced by REP. BEN P. EVARDONE
Lone District, Eastern Samar

EXPLANATORY NOTE

Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines" was passed into law with the purpose of providing policy and regulation in the governance of telecommunications industry. It also disfavored telecommunication monopoly and permits the entry of new telecommunications entities.

In line with the purpose of the law and as the telecommunications industry is imbued with public interest, this bill wishes to provide a leveling of the playing field among telecommunication entities and allows a better comparative advantage of the different telecommunication players and to offer each subscribing sectors a better choice apart from the dominant ones in the country.

At the end, the novelty of this bill will solely redound to benefit of the industry subscribers, a majority of which are the common Filipino masses.

In view of the foregoing, the approval of this bill is hereby requested.


BEN P. EVARDONE

HOUSE OF REPRESENTATIVES

House Bill No. **6003**

Introduced by REP. BEN P. EVARDONE
Lone District, Eastern Samar

AN ACT

**GRANTING THE AMA TELECOMMUNICATIONS, INC. A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN
TELECOMMUNICATIONS SYSTEMS IN 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 1987
2 Philippine Constitution and applicable laws, rules and regulations, there is hereby granted to
3 AMA Telecommunications, Inc., hereunder referred to as the grantee, its successors or
4 assigns, a franchise to construct, install, establish, operate, and maintain for commercial
5 purposes and in the public interest, in the Philippines, wire and/or wireless
6 telecommunications systems including mobile cellular, paging, fiber optics, satellite transmit
7 and receive systems, switches, and their value-added services such as the transmission of
8 voice, data, facsimile, control signs, audio and video, information services and all other
9 telecommunications systems technologies as are at present available or will be made
10 available through technological advances or innovations in the future; and/or construct,
11 acquire, lease and operate, or manage transmitting and receiving stations, lines, cables, or
12 systems as are convenient or essential to efficiently carry out the purpose of this franchise.

13

14 **SEC. 2. *Manner of Operation of Stations or Facilities.*** - The stations or facilities of
15 the grantee shall be constructed and operated in a manner as will, at most, result only in the
16 minimum interference on the wavelengths or frequencies of existing stations or other stations

1 which may be established by law, without in any way diminishing its own right to use its
2 assigned wavelengths or frequencies and the quality of transmission or reception thereon as
3 should maximize rendition of the grantee's services and/or the availability thereof.

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

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

1
2 **SEC. 5. Responsibility to the Public.** - The grantee shall conform to the ethics of
3 honest enterprise and not use its stations/facilities for obscene or indecent transmission or for
4 dissemination of deliberately false information or willful misrepresentation, or assist in
5 subversive or treasonable acts.

6
7 The grantee shall provide basic or enhanced telephone service in any city and/or
8 municipality in the Philippines where it has an approved Certificate of Public Convenience
9 and Necessity for the establishment, operation, and maintenance of a local exchange service,
10 without discrimination to any applicant therefor, in the order of the date of their applications,
11 up to the limit of the capacity of its local telephone exchange and, should the demand for the
12 telephone service at any time increase beyond the capacity thereof, the grantee shall increase
13 the same to meet such demand: *Provided*, That in case the total demand to be satisfied by the
14 expansion is less than the smallest viable local exchange available in the market as
15 determined by the NTC, the grantee shall not be obliged to furnish such service unless the
16 applicant for telephone service defrays the actual expenses for the installation of the
17 telecommunications apparatus necessary for such services and in such case, the NTC may
18 extend the time within which the grantee shall furnish the service.

19
20 The grantee shall operate and maintain all its stations, lines, cables, systems, and
21 equipment for the transmission and reception of messages, signals, and pulses in a
22 satisfactory manner at all times, and as far as economical and practicable, modify, improve,
23 or change such stations, lines, cables, systems, and equipment to keep abreast with the
24 advances in science and technology.

25 **SEC. 6. Rates for Services.** - The charges and rates for telecommunications services
26 of the grantee, except the rates and charges on those that may hereafter be declared or
27 considered as nonregulated services, whether flat rates or measured rates or variation thereof,
28 shall be subject to the approval of the NTC or its legal successor. The rates to be charged by
29 the grantee shall be unbundled, separable, and distinct among the services offered and shall
30 be determined in such a manner that regulated services do not subsidize the unregulated ones.

31 **SEC. 7. Right of Government.** - A special right is hereby reserved to the President
32 of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster, or

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

7
8 The radio spectrum is a finite resource that is part of the national patrimony and the
9 use thereof is a privilege conferred upon the grantee by the State and may be withdrawn
10 anytime after due process.

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

- 15
16 (a) Commence operations within one (1) year from the approval of its operating permit
17 by the National Telecommunications Commission;
18
19 (b) Commence operations within three (3) years from the effectivity of this Act; and
20
21 (c) Operate continuously for two (2) years.

22
23 **SEC. 9. Acceptance and Compliance.** – Acceptance of this franchise shall be given
24 in writing to the Congress of the Philippines, through the Committee on Legislative
25 Franchises of the House of Representatives and the Committee on Public Services of the
26 Senate, within sixty (60) days from the effectivity of this Act. Upon giving such acceptance,
27 the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render
28 the franchise void.

29 **SEC. 10. Bond.** - The grantee shall file a bond with the NTC in the amount that it
30 shall determine to guarantee compliance with and fulfillment of the conditions under which
31 this franchise is granted. If after three (3) years from the date of the approval of its permit by
32 the NTC, the grantee shall have fulfilled the conditions, the bond shall be cancelled by the

1 NTC. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso*
2 *facto* revoked.

3

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

10

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

15 **SEC. 13. *Books and Accounts.*** – The books and accounts of the grantee, its successor
16 or assignees, shall always be open to the inspection of the Commission on Audit (COA) and
17 its duly-authorized representatives. It shall be the duty of the grantee to submit to the COA
18 two (2) copies of the quarterly reports on the gross receipts, the net profits, and the general
19 condition of the business.

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

25

26 **SEC. 15. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.*** – The
27 grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the
28 rights and privileges acquired thereunder to any person, firm, company, corporation or other
29 commercial or legal entity, nor merge with any other corporation or entity, nor shall transfer
30 the controlling interest of the grantee, whether as a whole or in parts, and whether
31 simultaneously or contemporaneously, to any such person, firm, company, corporation, or
32 entity without the prior approval of the Congress of the Philippines: *Provided, That Congress*

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

9 **SEC. 16. Dispersal of Ownership.** - In accordance with the constitutional provision
10 to encourage public participation in public utilities, the grantee shall offer to Filipino citizens
11 at least thirty per cent (30%) or a higher percentage that may hereafter be provided by law of
12 its outstanding capital stock in any securities exchange in the Philippines within five (5) years
13 from the commencement of its operations: *Provided,* That in cases where public offer of
14 shares is not applicable, establishment of cooperatives operating public utilities must be
15 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.
16

17 **SEC. 17. Reportorial Requirement.** - The grantee shall submit an annual report to
18 the Congress of the Philippines, through the Committee on Legislative Franchises of the
19 House of Representatives and the Committee on Public Services of the Senate, on its
20 compliance with the terms and conditions of the franchise and on its operations on or before
21 April 30 of every year during the term of its franchise. The reportorial compliance certificate
22 issued by Congress shall be required before any application for permit or certificate is
23 accepted by the NTC.
24

25 **SEC. 18. Penalty Clause.** - Failure of the grantee to submit the requisite annual
26 report to Congress shall be penalized with a fine of Five hundred pesos (P500.00) per
27 working day of noncompliance. The fine shall be collected by the NTC from the delinquent
28 franchise grantee separate from the reportorial penalties imposed by the NTC.
29

30 **SEC. 19. Equality Clause.** - Any advantage, favor, privilege, exemption, or immunity
31 granted under other existing franchises, or which may hereafter be granted, upon prior review
32 and approval of Congress, shall become part of this franchise and shall be accorded
33 immediately and unconditionally to the herein grantee: *Provided,* That the foregoing shall
34 neither apply to nor affect provisions of telecommunications franchises concerning territory

1 covered by the franchise, the life span of the franchise, or the type of service authorized by
2 the franchise.

3

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

6

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

11

12 **SEC. 22 *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication
13 in the Official Gazette or in a newspaper of general circulation.

Approved,