

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7286



Introduced by Reps. Winston "Winnie" Castelo and Rodel Batocabe

EXPLANATORY NOTE

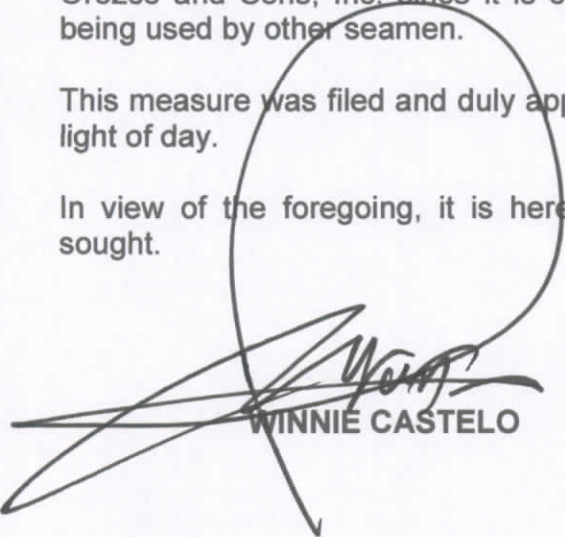
This bill seeks to renew the franchise of Enrique M. Orozco and Sons, Inc. granted under Republic Act Number Thirty Two Hundred Twenty Nine (RA 3229) as amended, entitled "An Act Granting Enrique M. Orozco and Sons, Inc. Residing at Number Four Hundred Forty One C, Isabel, Sampaloc, Manila, Philippines, A Temporary Permit to Construct, Install, Maintain and Operate Public Radiotelephone and Radiotelegraph Coastal Stations, and Public Fixed and Public Based and Land Mobile Stations for the Reception and Transmission of Radiotelephone and Telegraph Communications within the Philippines" for another twenty-five from the effectivity of this Act.

Enrique M. Orozco and Sons, Inc. Is one of the pioneers in telecommunications industry in the Philippines. They have been in operation since the 1960's. Their main core of business is ship to shore radio communication service which provides communication link between seafarers in the sea with their families and loved ones in the land.

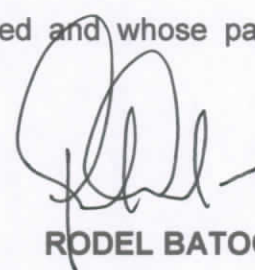
Despite the advancement of technology in the telecommunications industry, there are still a lot of people who use the radio communications service provided by Enrique M. Orozco and Sons, Inc. since it is cheaper as compared to satellite telephone system being used by other seamen.

This measure was filed and duly approved during the 16th Congress but never saw the light of day.

In view of the foregoing, it is hereby refiled and whose passage is most earnestly sought.



WINNIE CASTELO



RODEL BATOCABE

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AN ACT
RENEWING FOR ANOTHER TWENTY FIVE (25) YEARS THE FRANCHISE GRANTED TO
ENRIQUE M. OROZCO AND SONS, INC. UNDER REPUBLIC ACT NO 3229

Be enacted by the Senate and the House of Representatives of the Philippines in Congress Assembled

Section 1. Nature and Scope of the Franchise. - Subject to the provisions of the 1987 Constitution and applicable laws, rules and regulations, the franchise granted to the Enrique M. Orozco and Sons, Inc. hereunder referred to as the grantee, its successors or assignees, under Republic Act No. 3229, to construct, install, establish, operate, and maintain for commercial purposes and in the public interest, wire and/ or wireless telecommunications systems including mobile cellular, paging, fiber optics, satellite transmit and receive systems, switches, and their value added services, such as transmissions of voice, data, facsimile, control signs, audio and video, information services, and all other telecommunications systems technologies as are at present available or will be made available through technological advances or innovations in the future; and / or construct, acquire, lease, and operate, or manage transmitting and receiving stations, lines, cables, or systems in the Philippines, for domestic and international communications, is hereby renewed for another twenty five (25) years from the effectivity of this act.

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 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.

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

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

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

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

The grantee shall operate and maintain all its stations, lines, cables, systems, 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 stations, lines, cables, systems, and equipment to keep abreast with the advances in science and technology..

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

Section 7. 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 due compensation to the grantee for the use of said stations, transmitters, facilities, or equipment during the period when these 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 any time after due process.

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

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

Section 10. Right of Interconnection. - The grantee is hereby authorized to connect or demand connection of its telecommunications system to other telecommunications systems installed, operated and maintained by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under such terms and conditions mutually agreed upon by the parties concerned, this right shall be subject to the review and modification of the NTC.

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

Section 12. Books and Accounts. - The books and accounts of the grantee, its successors or assignees, shall always be open to the inspection of the commission on Audit (COA) and its duly authorized representatives. It shall be the duty of the grantee to submit to the COA two(2) copies of the quarterly reports on the gross receipts, the net profits and the general condition of the business.

Section 13. Warranty in Favor of the National and Local Governments. - The grantee shall hold the national, provincial, city and municipal governments of the Philippines free 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, transmitters, facilities and equipment of the grantee.

Section 14. Sale, Lease, Transfer, Usufruct, or Assignment of Franchise. - The grantee shall not sell, lease, transfer, grant the usufruct of, or 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 other corporation or entity , nor shall transfer the controlling interest of the grantee, whether as a whole or in part, and whether simultaneously or

contemporaneously, to any person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines: Provided, That Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights or privileges acquired within sixty (60) days after the completion of said transaction.; Provided, further, That failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked.; Provided, finally, That any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitations of this Act.

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

Section 16. Reportorial Requirement. - The grantee shall submit an annual report to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of every year during the term of its franchise. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by NTC.

Section 17. Penalty Clause. - Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of Five Hundred Pesos(P500.00) per working day of noncompliance. The fine shall be collected by the NTC from the delinquent grantee separate from the reportorial penalties imposed by NTC.

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

Section 19. Separability Clause. - If any of the sections or provisions of this Act is held invalid, all other provision not affected thereby shall remain valid.

Section 20. Repealability and Nonexclusivity 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 privilege herein provided for.

Section 21. Effectivity. - This Act shall take effect fifteen (15) days after the publication in the Official Gazette or in a newspaper of general circulation.

Approved,