

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 8015



Introduced by Reps. Maria Carmen S. Zamora and Arthur C. Yap

**AN ACT GRANTING SOLAR PARA SA BAYAN CORPORATION A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN DISTRIBUTABLE
POWER TECHNOLOGIES AND MINIGRID SYSTEMS THROUGHOUT THE
PHILIPPINES TO IMPROVE ACCESS TO SUSTAINABLE ENERGY**

EXPLANATORY NOTE

This bill seeks to grant a franchise to construct, install, establish, operate and maintain Distributable Power Technologies and Minigrid Systems, to provide electric power to customers and end-users throughout the Philippines, to Solar Para Sa Bayan Corporation, a company with a social mission to end poverty and mitigate climate change through the use of affordable sustainable energy.

The National Electrification Administration estimates that, as of December 2017, 2,399,108 households in the Philippines remain without electricity, with 529,952 in Luzon, 524,040 in Visayas and 1,345,116 in Mindanao. Many more endure frequent power outages and the highest electricity rates in Southeast Asia. Moreover, a Pulse Asia survey in June 2018 indicated that 82% of Filipinos favor having new options for electric service, and 89% of Filipinos favor increasing the use of renewable energy.

Unprecedented advances in technology offer hope for solving our country's power issues: An increasing number of Filipinos now source part of their energy from Distributable Power Technologies such as solar rooftop systems, while batteries and hybrid technologies enable Minigrid Systems to serve the energy needs of those for whom affordable and reliable clean energy was once unreachable.

In March 2018, President Rodrigo Duterte called on the private sector to contribute to improving electric service for all. Heeding this, Solar Para Sa Bayan Corporation installed Southeast Asia's largest minigrid for the town of Paluan, Occidental Mindoro to bring reliable 24/7 power for the first time in its history. It has since begun work on more minigrids at the request of communities across the country.

This bill seeks to set out Solar Para Sa Bayan Corporation's rights and responsibilities in serving customers and end-users throughout the Philippines, to enable Filipinos to enjoy not only reliable and affordable but also cleaner energy, to achieve a more sustainable future and better life for all.

In view of the foregoing, the approval of this bill is earnestly sought.



REP. MARIA CARMEN S. ZAMORA



REP. ARTHUR C. YAP

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Be it 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 Constitution and applicable laws, rules and regulations, there is hereby granted to Solar Para Sa Bayan Corporation, hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate and maintain in the public interest and for commercial purposes, Distributable Power Technologies and Minigrid Systems to provide electric power to customers and end-users throughout the Philippines. Likewise, the grantee is authorized to engage in ancillary businesses and any related businesses which maximize the utilization of its assets. The grantee shall have the right to open and non-discriminatory access to any transmission or distribution system, and shall be eligible to become a member of the wholesale electricity spot market.

The following terms shall have the meaning set forth herein:

“Distributable Power Technologies (DPTs)” refers to devices, assets, facilities and other technologies of any capacity that may connect directly to customers or end-users, or interconnect with transmission or distribution systems or Minigrid Systems, such as but not limited to rooftop or ground-mounted solar panels, wind turbines, hydrogen fuel cells, backup gensets, hybrid power systems, wires, controllable loads, metering, communication equipment, electric vehicle charging stations, and energy storage.

“Minigrid System” refers to an integrated group of loads and devices, assets, facilities and other technologies of any capacity, including DPTs, that may operate either independently from or in conjunction with transmission or distribution systems or other Minigrid Systems, and is distinct from a distribution system or a generation facility.

“Minigrid Company” refers to any person or entity which constructs, installs, establishes, operates and maintains Minigrid Systems or DPTs, may sell, purchase, or trade electric power with customers or end-users, and is distinct from a distribution utility or a generation company.

Section 2. Manner of Operations of Facilities. – All facilities, lines and systems for electric services owned, maintained, operated or managed by the grantee, its successors or assigns, shall be operated and maintained at all times in a proper and suitable manner. Whenever practicable and for purposes of maintaining order, safety and aesthetics along highways, roads, streets, alleys or right-of-way, the grantee may allow the use of free spaces in its poles, facilities, or right-of-way by interested parties upon reasonable compensation to the grantee considering costs incurred to accommodate and administer the use of the grantee's facilities by such parties.

Section 3. Ingress and Egress, and Excavation and Restoration Works. – For the purpose of constructing, installing, establishing, operating and maintaining poles, DPTs, Minigrid Systems, or any part thereof, and other supports for said facilities, wires or other conductors or for the purpose of laying and maintaining said facilities, wires, cables or other conductors, it shall be lawful for the grantee, its successors or assigns, with the approval of the Department of Public Works and Highways (DPWH) or the local government units (LGUs) 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 any public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered, or changed by reason of the erection of poles or maintaining facilities or other supports, or the laying of wires, other conductors or conduits, shall be repaired and properly restored at the expense of the grantee, its successors or assigns, in accordance with the standards set by the DPWH or the LGU concerned.

Section 4. Responsibility to the Public. – The grantee shall operate DPTs and Minigrid Systems in the least cost manner. In the interest of the public good and as far as feasible, the grantee shall modify, improve or change its facilities and equipment for the purpose of providing efficient and reliable service and reduced electricity costs. The grantee shall charge reasonable and just power rates for its services to all types of consumers in order that business and industries shall be able to compete.

Section 5. Rates for Services. – To achieve efficient service for its customers and end-users, the grantee shall be authorized to charge rates equal to or lower than the average ERC-approved distribution retail supply rates for the preceding year of the distribution utility with the capacity closest to the grantee's Minigrid System.

Section 6. Promotion of Consumer Interests. – The herein grantee shall establish a consumer desk that will handle consumer complaints and ensure adequate promotion of consumer interests. The grantee shall act with dispatch on all complaints brought before it.

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 facilities of the grantee 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 the said facilities during the period when they shall be so operated.

Section 8. Tax Provisions, Charges and Other Requirements. – To achieve efficient service and reduced electricity costs for end-users, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of its gross income derived by the grantee from its operation under this franchise. Said franchise tax shall be in lieu of all taxes, such as but not limited to, income tax, value-added tax, real property tax, business taxes, franchise taxes, licenses, and any and all taxes, duties, fees, and charges of any kind, nature, or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits and upon

its facilities, assets and all real and personal property used, owned or possessed by the grantee, from all of which taxes, duties and charges the grantee is hereby expressly exempted.

The grantee shall file the return with the city or province where its principal place of business is located and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code (NIRC) and the return shall be subject to audit by the Bureau of Internal Revenue.

To achieve efficient service and reduced electricity costs for end-users, the grantee and its end-users shall not be required to comply with the provisions, charges and requirements in: Section 34 of Republic Act 9136; Sections 289 to 294 of Republic Act 7160; and ERC Resolution No. 16, Series of 2014.

Section 9. Right of Eminent Domain. – Subject to the limitations and procedures prescribed by law, the grantee is authorized to exercise the right of eminent domain insofar as it may be reasonably necessary for the construction, installation, establishment, and efficient operation and maintenance of DPTs or Minigrid Systems. The grantee is authorized to install and maintain its poles, wires and other facilities over and across public property, including streets, highways, forest reserves and other similar property of the Government of the Philippines, its branches or any of its instrumentalities. The grantee may acquire such private property as is needed for the realization of the purposes for which this franchise is granted, including property already devoted to public use or with public character: Provided, this will result in greater benefit for the public: Provided, further, That proper condemnation proceedings shall have been instituted and applicable rules shall have been complied with.

Section 10. 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 person, caused by the construction, installation, operation and maintenance of the lines for electric services of the grantee.

Section 11. Liability to Damages. – The grantee shall be liable for any injury and damage arising from or caused by accident to persons and property by reason of any defective construction under this franchise or of any neglect or omission to keep its poles and wires in a safe condition.

Section 12. Sale, Lease, Transfer, Usufruct, etc. – The grantee shall not lease, transfer, grant the usufruct of or sell this franchise or the rights and privileges acquired thereunder to any person, firm, company or other commercial or legal entity, nor merge with any other company, nor shall the controlling interest of the grantee be transferred whether in whole or in part, and whether simultaneously or contemporaneously, to any such person, firm, company or entity without the prior approval of the Congress of the Philippines, unless to a wholly-owned subsidiary of the grantee or where the grantee is the surviving corporation: Provided, That any such transfer, sale or assignment is in accordance with the constitutional limitations. 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 13. Equality Clause. – In the event that any competing individual, partnership or corporation shall receive a similar permit or franchise with terms and/or provisions more favorable than those herein granted or which tend to place the herein grantee at any disadvantage, such terms and/or provisions shall be deemed part hereof and shall operate equally in favor of the herein grantee: Provided, That any term and/or provision herein granted which are not contained in other franchises that may hereafter be granted shall likewise be enjoyed by the future grantees.

Section 14. Separability Clause. – If, for any reason, any of the sections or provisions of this Act is held unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 15. Applicability Clause. – The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146, as amended, otherwise known as the “Public Service Act.”

Section 16. 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 17. Reportorial Requirement. – The grantee shall submit an annual report of finances and operations to the Congress of the Philippines.

Section 18. Terms of Franchise. – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act.

Section 19. Acceptance and Compliance. – Acceptance of this franchise shall be given in writing within sixty (60) days after the effectivity of this Act.

Section 20. Repealing Clause. – All laws, decrees, orders, resolutions, instructions and rules and regulations or parts thereof, which are inconsistent with this Act, are hereby deemed repealed or modified accordingly.

Section 21. Effectivity Clause. – This Act shall take effect immediately from the date of its publication, upon the initiative of the grantee, in at least two (2) newspapers of general circulation in the Philippines.

Approved.