

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th Congress
3rd Regular Session

HOUSE BILL NO. 8499



Introduced by: **HON. "KUYA" JOSE ANTONIO R. SY-ALVARADO**

EXPLANATORY NOTE

The 1987 Constitution provides that the exploration, development, and utilization of natural resources shall be under the full control and supervision of the State.

Solar power is a natural source of clean green electricity that is either created from sunlight or from heat from the sun. It is a renewable energy source that can be replenished naturally. The use of this renewable energy source is also a great way to adopt with the increasing price of fuel and the damaging effects of pollution since it does not produce any harmful emissions. With the given benefits, the State shall develop and utilize this renewable energy source under its control and supervision by providing an enabling legislation.

Thus, the purpose of this bill is to provide a grant for Solar Para Sa Bayan Corporation a franchise to construct, install, establish, operate, and maintain distributable power technologies and mini-grid systems throughout the Philippines in order to improve access to sustainable energy source.

In view thereof, the early passage of this proposed measure is highly recommended.

"KUYA" JOSE ANTONIO R. SY-ALVARADO

*Representative
First District of Bulacan*

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HOUSE BILL NO. 8499

Introduced by: **HON. "KUYA" JOSE ANTONIO R. SY-ALVARADO**

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

Be it adopted by the Senate and the House of Representatives of the Philippines in Congress assembles:

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 Solar Para Sa Bayan Corporation, hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate and maintain in the public interest and for commercial purposes, Distributable Power Technologies (DPTs) 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 business 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, subject to compensation and existing regulations.

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

Minigrid System refers to an integrated group 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 Operation of Facilities.* – All facilities, lines and systems for renewable energy services owned, maintained, operated, or managed by the grantee, its successors or assignees, shall be operated and maintained at all times in the 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, 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 wires or other conductors for the laying and maintaining of underground wires, cables, pipes or other conductors, the grantee, its successors or assignees, is authorized to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or to Local Government Units (LGU) concerned: Provided, however, That any public place, road, highway, street, lane, alley, avenue, sidewalk, tunnel, or bridge disturbed, altered, or changed by reason of erection of poles, DPTs, Minigrid Systems, or any part thereof or other supports or the underground laying of wires, other conductors or conduits, shall be repaired or replaced in workmanlike manner at the expense of the grantee, its successor or assignees, in accordance with standards set by DPWH or the LGU concerned. Should the grantee, its successors or assignees, after fifteen (15)-day notice from the said authority, fail, refuse, or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered, or changed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired or replaced in good order and condition and charge the grantee, its successor or assignees at double the amount of the costs and expenses for such repair or replacement.

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

SECTION 7. *Right of the Government.* – A Special right is hereby reserved to the President of the Philippines, in time 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 an agency of the government upon due compensation to the grantee for the use of said facilities during the period when they shall be so operated.

SECTION 8. *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 the proper condemnation proceedings shall have been instituted and applicable rules shall have been complied with.

SECTION 9. *Term and Franchise.* – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner cancelled or revoked. This franchise shall be deemed ipso facto revoked in the event that the grantee fails to operate continuously for two (2) years.

SECTION 10. *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, liabilities, demands, or actions arising out of accidents that

cause injury to persons and damage to properties, during the construction, installation, operation, and maintenance of the lines for electric services of the grantee.

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

SECTION 12. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, 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 other corporation or entity, nor 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, 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. *Compliance with Labor Standards.* – The grantee, its successors or assignees shall comply with the applicable labor standards under existing labor laws, rules, and regulations and such other issuances as may be promulgated by the Department of Labor and Employment, taking into consideration the nature and peculiarities of the electric power industry.

SECTION 14. *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 of 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 the succeeding year.

The annual report shall include an update on the roll-out, development, operation and/or expansion of business; audited financial statements; latest General Information Sheet officially submitted to SEC (if applicable); certification of the DOE on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

A reportorial compliance certificate issued by Congress shall be required before any application for permit of certificate is accepted by the DOE.

SECTION 15. *Fine.* – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of Five Hundred Pesos (P500.00) per working day of noncompliance. The fine shall be collected by the DOE from the delinquent franchise

grantee separate from the reportorial penalties imposed by the DOE and the same shall be remitted to the National Treasury.

SECTION 16. *Equality Clause.* – Any advantage, favor, privilege, exemption or immunity granted under existing franchises, or which may hereinafter be granted shall, upon prior review and approval of Congress, become part of previously granted power distribution franchises and shall be accorded immediately and unconditionally to the grantees of such franchises. Provided, however, that the foregoing shall neither apply to nor affect provisions concerning territory covered, term, or the type of service authorized by the franchise.

SECTION 17. *Applicability of Existing Laws.* – The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146, or the “Public Service Act” as amended; Republic Act No. 9513 or the “Renewable Energy Act”; and Republic Act No. 9136, or the “Electric Power Industry Reform Act”, as amended.

SECTION 18. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SECTION 19. *Repealability and Nonexclusively Clause.* – This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippine when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SECTION 20. *Repealing Clause.* – All other laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, amended or modified accordingly.

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

Approved.