

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

Seventeenth Congress
Third Regular Session

HOUSE BILL NO. 8829



Introduced by **Representatives Frederick F. Abueg and Gil A. Acosta**

EXPLANATORY NOTE

This bill seeks to grant MORE Reedbank Corporation a franchise to establish, operate, and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to the end users of the Province of Palawan.

The electrical distribution in the Province of Palawan is presently handled by the Palawan Electric Cooperative (PALECO) under a franchise granted by the National Electrification Administration (NEA). But the quality of service of PALECO has been wanting. Among the complaints against PALECO are serious problems of frequent and long power outages and power interruptions, inadequately-maintained lines, inadequate investment in distribution facilities, and inordinate delay in the restoration of power services, among others.

No less than President Rodrigo R. Duterte has taken note of the problem and he said that government will expropriate the franchise of PALECO if it does not shape up by the end of 2018. The NIA has recently taken over the management of PALECO to help rectify the situation.

PALECO serves the second largest franchise area in the country and provides power to eighteen (18) municipalities and Puerto Princesa City, serving a total of 135,284 consumers in Palawan. The Province of Palawan is the fifth (5th) largest island in the country and PALECO is considered a missionary area since it is not connected to the transmission facilities of the National Grid Corporation of the Philippines. Currently, the peak energy demand in the Palawan mainland grid is at 45.8 megawatts (MW) while the contracted power supply from the three (3) independent power producers (IPPs) is 53.7 MW. Despite there being more supply than demand, PALECO is still not able to adequately and efficiently operate and maintain the Palawan mainland grid which results in the regular power service outages and interruptions.

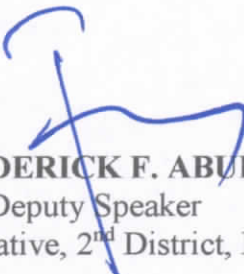
Palawan is known for its beautiful beaches and the tourism industry is the third largest economic driver of the Province and the tourism industry is threatened by power interruptions. The national government is trying to stimulate the economic development through encouraging tourism development. However, unless the power crisis is controlled by a reliable and efficient power distributor, instead of merely reacting to problems, the tourism industry will not grow, thus, hindering further investment into the tourism industry and the related sectors.

To solve the continuing inefficient management of the distribution of electricity to the Palawan mainland, there is an imperative need to grant MORE Reedbank Corporation the franchise to establish, operate, and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to end users in the Province of Palawan.

MORE Reedbank Corporation, through its parent company Prime Metroline Holdings Inc. has a track record for big businesses and is backed up by the impressive financial resources of its stockholders group. MORE Reedbank Corporation is managed by reputable, experienced and competent executives and officers who will apply their expertise and devotion towards giving the people of the Province of Palawan the electrical distribution company that they need and deserve. MORE Reedbank Corporation is prepared to work in coordination with PALECO to improve electric distribution services in the Province of Palawan.

Considering that MORE Reedbank Corporation possesses the required capability, it is apt for the Congress to grant MORE Reedbank Corporation the franchise to establish, operate, and maintain a distribution system for the conveyance of electrical power to end users in the Province of Palawan.

The Support of the Members of Congress for the prompt and timely passage of this measure is earnestly requested.



FREDERICK F. ABUEG
Deputy Speaker
Representative, 2nd District, Palawan



GIL A. ACOSTA
Congressman
Representative, 3rd District, Palawan

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HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 8829

Introduced by: **Representatives Frederick F. Abueg and Gil A. Acosta**

**AN ACT GRANTING MORE REEDBANK CORPORATION A
FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN,
FOR COMMERCIAL PURPOSES AND IN THE PUBLIC
INTEREST, A DISTRIBUTION SYSTEM FOR THE
CONVEYANCE OF ELECTRIC POWER TO END USERS IN
THE PROVINCE OF PALAWAN**

*Be it enacted by the Senate and House of Representatives 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 MORE Reedbank Corporation, hereunder referred to as the grantee, its successors or assignees, a franchise to establish, operate, and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to end users in the Province of Palawan.

As used in this Act, distribution system refers to the system of wires and associated facilities including sub-transmission lines belonging to or used by a franchised distribution utility extending between the delivery point on the national transmission system or generating facility and the metering point or facility of the end user.

SECTION 2. *Manner of Operation of Facilities.* — All electric distribution facilities, lines, and systems for electric services owned, maintained, operated, or managed by the grantee, its successors or assignees, shall be operated and maintained at all times in the best manner, and it shall be the duty of the grantee, its successors or assignees, whenever required to do so by the Energy Regulatory Commission (ERC) or its legal successor, or the Department of Energy (DOE) or its legal successor, or any other government agency concerned, to modify, improve, and change such facilities or systems in such a manner and to such extent as the progress in science and improvements in the electric power service industry may render reasonable and proper.

Whenever practicable and for purposes of maintaining order, safety, and aesthetics along highways, roads, streets, alleys, or easements, the grantee may allow the use of its poles, facilities, or easements by interested parties upon reasonable compensation. The ERC shall resolve cases of dispute or disagreement between parties.

SECTION. 3. *Authority of the Energy Regulatory Commission.* — The grantee shall secure from the ERC or any other government agency which has jurisdiction over the operation of the herein grantee, the necessary certificate of public convenience and necessity and other appropriate permits and licenses for the construction and operation of its electric distribution system.

SECTION 4. *Excavation and Restoration Works.* — For the purpose of erecting and maintaining poles 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, alleys, avenues, sidewalks, or bridges of said province, cities and/or municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or the local government units (LGUs) concerned: *Provided, however,* That any public place, road, 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 or replaced in workmanlike manner at the expense of the grantee, its successors or assignees, in accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assignees, after the ten (10)-day notice from the said authority, fail, refuse, or neglect to repair or replace any part of a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been 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 successors or assignees, at double the amount of the costs and expenses for such repair or replacement.

SECTION 5. *Responsibility to the Public.* — The grantee shall supply electricity to its captive market in the urban and rural portions of its franchise area in the least costly manner. In the interest of the public good, as far as feasible and whenever required by the ERC, the grantee shall modify, improve, or change its facilities, poles, lines, systems, 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 within its franchise areas. The grantee shall have the obligation to provide open and nondiscriminatory access to its distribution system and services for any end user within its franchise area consistent with Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001". The grantee shall not engage in any activity that will constitute an abuse of market power such as unfair trade practices, monopolistic schemes, and other activities that will hinder competitiveness of businesses and industries.

SECTION 6. *Rates for Services.* — The retail rates and charges for the distribution of electric power by the grantee to its end users shall be regulated by and be subject to the approval of the ERC or its legal successor.

The grantee shall identify and itemize in the statement of account it issues to end users the components of the retail rate charged pursuant to Republic Act No. 9136. Such rates charged by the grantee shall be made public and transparent. The grantee shall implement a lifeline rate to marginalized end users as mandated under Republic Act No. 9136.

SECTION 7. *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 8. *Right of the 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 distribution system of the grantee; to temporarily suspend the operation of any station or facility 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 distribution system during the period when these shall be so operated.

SECTION 9. *Right of Eminent Domain.* — Subject to the limitations and procedures prescribed by law, the grantee is authorized to exercise the power of eminent domain insofar as it may be reasonably necessary for the efficient establishment, improvement, upgrading, rehabilitation, maintenance and operation of its services, the grantee is authorized to install and maintain its poles, wires, and other facilities over, under, and across public property, including streets, highways, parks, 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 actually necessary for the realization of the purposes for which this franchise is granted, including but not limited to poles, wires, cables, transformers, switching equipment and stations, buildings, infrastructures, machineries, and equipment previously used, or actually used without legal authority or franchise, or intended to be used, or have been abandoned, unused or underutilized, or which obstructs its facilities, for the operation of a distribution system for the conveyance of electric power to end users in its franchise area: *Provided*, That proper expropriation proceedings shall have been instituted and just compensation paid.

Provided, further, That upon the filing of the petition for expropriation or at any time thereafter and after due notice to the owner of the property to be expropriated and the deposit in a bank located in the franchise area subject to the order of the court of an amount equivalent to the assessed value of the property for purposes of taxation, the grantee shall be entitled to immediate possession, operation, control, use and disposition of the properties sought to be expropriated, including the power of demolition, if necessary, notwithstanding the pendency of issues before the court. This is without prejudice to the authority of the court to determine the amount of just compensation of the property expropriated after due notice and hearing.

SECTION 10. *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 cancelled or revoked. This franchise shall be deemed *ipso facto* revoked in the event that the grantee fails to operate continuously for five (5) years.

SECTION 11. *Renewal or Extension of Franchise.* — The grantee shall apply for the renewal or extension of its franchise five (5) years before its expiration date which shall be reckoned fifteen (15) days after the publication of the franchise in the *Official Gazette* or in a newspaper of general circulation, whichever comes earlier.

SECTION 12. *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 distribution system of the grantee.

SECTION 13. *Liability for Damages.* — The grantee shall be liable for any injury to persons and damage to property arising from or caused by any accident arising from any defective construction of any infrastructure built pursuant to the operation of its business under this franchise, or by any neglect or failure to keep its poles and wires in safe condition.

SECTION 14. *Sale, Lease, Transfer, Grant of 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 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 and compliance with legal requirements stipulated in other statutes: *Provided*, 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 percent (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 a public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented, including the listing of the holding company that ultimately owns and controls the grantee. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SECTION 16. *Commitment to Provide and Promote the Creation of Employment Opportunities.* — The grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operation: *Provided*, That priority shall be accorded to the residents in areas where any of its offices is located: *Provided, further*, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: *Provided, finally*, That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually.

SECTION 17. *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 the succeeding year.

The annual report shall include an update on the rollout, development, operation and/or expansion of business; audited financial statements; latest GIS officially submitted to the SEC (if applicable); certification of the ERC 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 or certificate is accepted by the ERC.

SECTION 18. *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 ERC from the delinquent franchise grantee separate from the reportorial penalties imposed by the ERC and the same shall be remitted to the National Treasury.

SECTION 19. *Equality Cause.* — Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereinafter be granted to power distribution franchises, 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, however,* That the foregoing shall neither apply to nor affect provisions concerning the territory covered, term, or type of service authorized by the franchise.

SECTION 20. *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, and Republic Act No. 9136.

SECTION 21. *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 22. *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 23. *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 24. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,