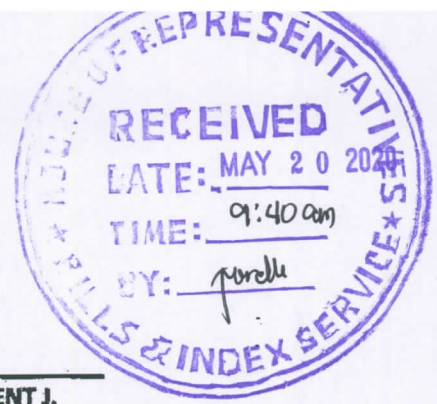


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6769



Introduced by REPRESENTATIVES PAOLO Z. DUTERTE, ISIDRO T. UNGAB, VINCENT J. GARCIA and SANDRO L. GONZALES

EXPLANATORY NOTE

This bill seeks to renew the franchise granted to Davao Light and Power Company, Inc., under Republic Act No. 8960, entitled, "An Act Further extending the Term of the Franchise Granted to Davao light and Power Company, Inc. to Construct, Operate and Maintain an Electric Light, Heat and Power System in Davao City and the Municipalities of Carmen, Panabo, Dujali, and Santo Tomas, Province of Davao Del Norte, for a Period of Twenty-Five Years and for Other Purposes," enacted into law on September 7, 2000.

Davao Light and Power Company, Inc (Davao Light) is an entity that has been granted authority under its current franchise to operate for the last twenty (20) years. But its operations as an electric distribution utility dates back to November 26, 1930, when it was first granted a franchise under Philippine Act No. 3760 to serve the City of Davao. Prior to the expiration of the original franchise term on November 25, 1980, the State, through the National Electrification Commission (NEC) (now the National Electrification Administration), renewed the Davao Light's franchise to another twenty-five (25) years or from November 26, 1980 to November 25, 2005 under NEC Resolution No. 134 dated September 7, 1976. On the same year, Davao Light's franchise area was also expanded to include the Municipality of Carmen and the City of Panabo. On September 7, 2000, Congress enacted Republic Act No. 8960, which further renewed Davao Light's franchise term from September 7, 2000 to September 6, 2025.

Today, Davao Light stands as the third largest privately-owned electric distribution utility in the Philippines, with respect to customer size and annual kilowatt-hour sales. It

continues to energize and benefit a population of approximately 1.8 million over a total area of 3,561 square kilometers. As of December 2019, Davao Light has served and continues to serve a total of around 420,666 customers. With the renewal of its franchise, it intends to build on its previous success and continue delivering, within its franchise area, electricity that is reliable and sufficient at the most reasonable costs.

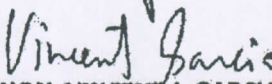
The term of the franchise of Davao Light, which is twenty-five years (25), will expire on September 6, 2025.

It is therefore imperative that the State give its imprimatur and support to the renewal of Davao Light's franchise, so it may continue to deliver quality public service.

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



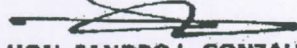
HON. PAOLO Z. DUTERTE



HON. VINCENT J. GARCIA



HON. ISIDRO T. UNGAB



HON. SANDRO L. GONZALES

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6769

Introduced by **REPRESENTATIVES PAOLO Z. DUTERTE, ISIDRO T. UNGAB, VINCENT J. GARCIA**
and **SANDRO L. GONZALES**

AN ACT

FURTHER EXTENDING THE TERM OF THE FRANCHISE GRANTED TO DAVAO LIGHT AND POWER COMPANY, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC, LIGHT, HEAT AND POWER SYSTEM IN DAVAO CITY, PANABO CITY, AND THE MUNICIPALITIES OF CARMEN, DUJALI, AND SANTO TOMAS IN THE PROVINCE OF DAVAO DEL NORTE, FOR A PERIOD OF TWENTY-FIVE (25) YEARS AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

- 1 **SECTION 1. Nature and Scope of Franchise.** Subject to the provisions of the 1987 Philippine
2 Constitution and applicable laws, rules and regulations, there is hereby granted to Davao Light Power and
3 Company, Inc., hereunder referred to as the grantee, its successors or assigns, a franchise to construct,
4 install, establish, operate and maintain for commercial purposes and in the public interest, an electric,
5 light, heat and power system for the conveyance, distribution and sale of electric power to the end-users
6 in Davao City, Panabo City, and the Municipalities of Carmen, Dujali, and Santo Tomas in the Province of
7 Davao Del Norte.
- 8 As used in this Act, distribution system refers to the system of wires and associated facilities including

1 subtransmission lines belonging to or used by a franchised distribution utility extending between the
2 delivery point on the national transmission system or generating facility and the metering point or facility
3 of the end-user.

4 **Section 2. Authority of the Energy Regulatory Commission.** – The grantee shall secure from
5 the Energy Regulatory Commission (ERC) or any other government agency which has jurisdiction over the
6 operation of the herein grantee, the necessary certificate of public convenience and necessity and other
7 appropriate permits and licenses for the construction and operation of its electric distribution system.

8 **Section 3. Manner of Operation of Facilities.** – All electric distribution facilities, lines and
9 systems for electric services owned, maintained, operated or managed by the grantee, its successors or
10 assigns, shall be operated and maintained at all times in accordance with applicable rules and regulations,
11 and it shall be the duty of the grantee, its successors or assigns, whenever required to do so by the ERC
12 or its legal successor, or the Department of Energy (DOE) or its legal successor, or any other government
13 agency with jurisdiction over the grantee, to modify, improve and change such facilities or systems in such
14 a manner and to such extent as progress in science and improvements in the electric power services may
15 render reasonable and proper.

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

workman-like manner at the expense of the grantee, or its successors or assigns, in accordance with the standards set by the DPWH or the LGU concerned.

Section 5. Use of facilities by third parties. – Whenever practicable and for purposes of maintaining order, safety and aesthetics along highways, roads, streets, alleys or rights-of-way, the grantee may allow the use of designated spaces in its poles, facilities or rights 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 6. 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. The grantee shall also be required to source and procure its power requirements in accordance with the applicable rules and orders of the ERC and/or the DOE.

The grantee shall have the obligation to provide open and non-discriminatory 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 the competitiveness of businesses and industries. The grantee shall enter into bilateral power supply contracts in accordance with the limitation imposed by applicable laws, provided that, bilateral power supply contracts sourced from renewable energy resources shall not be included within such limitation.

Section 7. Rates for Services. – The rates for the sale and distribution of electricity by the

1 grantee to its end-users shall be subject to the regulations of the ERC or its legal successor. The rates for
2 the sale and distribution of electricity, light, heat and power shall include the grantee's right to recover
3 expenses and costs incurred in accordance with applicable rules and regulations.

4 **Section 8. Right of Government.** – A special right is hereby reserved to the President of the
5 Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace
6 and order, to temporarily take over and operate the stations or facilities of the grantee, to temporarily
7 suspend the operation of any station or facility in the interest of public safety, security and public welfare,
8 or to authorize the temporary use and operation thereof by any agency of the government, upon due
9 compensation to the grantee, for the use of said stations or facilities during the period when they shall be
10 so operated.

11 **Section 9. Right of Eminent Domain.** Subject to the limitations and procedures prescribed
12 by law, the grantee is authorized to exercise the right of eminent domain insofar as it may be reasonably
13 necessary for the efficient improvement, upgrading, rehabilitation, maintenance and operation of
14 services. The grantee is authorized to install and maintain its poles, wires and other facilities over and
15 across public property, including streets, highways, forest reserves, parks and other similar property of
16 the Government of the Philippines, its branches or any of its instrumentalities. The grantee may acquire
17 such private property, wherever located, as is actually necessary for the realization of the purposes for
18 which this franchise is granted: Provided, that proper condemnation proceedings shall have been
19 instituted and just compensation paid.

20 **Section 10. Warranty in Favor of Local Governments.** – The grantee shall hold the municipalities free
21 from any damage to their respective properties by reason of construction under this franchise or of any

neglect or omission to keep the said poles, wires and other property in a safe condition.

Section 11. Rights/Tax Provisions. - The grantee, successors or assigns, shall be subject to the payment of all internal revenue taxes, duties, fees or its charges and other impositions applicable to private electric utilities under the National Internal Revenue Code of 1997, as amended, and local franchise tax pursuant to a duly enacted local tax ordinance: Provided, that said local franchise tax shall be in lieu of any and all taxes of any kind, nature or description levied, established, or collected by any local or national authority on its franchise, rights, privileges, receipts and any and all equipment and assets; Provided, further, that nothing herein shall be construed as repealing any specific tax exemptions, incentives, or privileges granted under any relevant law; Provided, finally, that all rights, privileges, benefits and tax exemptions accorded to existing and future private electric utilities by their respective franchises shall likewise be extended to the grantee.

Section 12. 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 by the grantee to keep its poles and wires in safe condition.

Section 13. Sale, Lease, Transfer, Grant of Usufruct or Assignment of Franchise. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise or the rights and privileges acquired thereunder, to any person, firm, company, corporation or other commercial or legal entity, or merge with any other person, company or corporation, nor shall the controlling interest of the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the approval of the Congress of the Philippines. Any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitation of this Act.

1 **Section 14. Term of Franchise.** – This franchise shall be in effect for a period of twenty-five
2 (25) years from the expiration date of the term granted by Republic Act No. 8960. Upon reasonable notice
3 and hearing, this franchise may be revoked in the event the grantee fails to operate continuously for two
4 (2) years.

5 **Section 15. Renewal, Extension, or Revocation of Franchise.** – The grantee shall apply for the
6 renewal or extension of its franchise before its expiration date, which shall be reckoned fifteen (15) days
7 after the publication of the franchise in the Official Gazette or in a newspaper of general circulation,
8 whichever comes earlier.

9 Upon reasonable notice and hearing, this franchise may be revoked by Congress when the public interest
10 so requires or when the grantee fails to reasonably comply with regulatory standards.

11 **Section 16. Equality Clause.** - Any advantage, favor, privilege, exemption or immunity
12 granted under existing franchises, or which may hereafter be granted, upon prior review and approval of
13 Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to
14 the herein grantee: Provided, however, that the foregoing shall neither apply to nor affect provisions
15 concerning territory covered by the franchise, the life span of the franchise or the type of service
16 authorized by the franchise: Provided, further, that the foregoing shall not apply to the sale, lease,
17 transfer, grant of usufruct or assignment of legislative franchises with prior congressional approval.

18 **Section 17. Dispersal of Ownership.** – In accordance with the constitutional provision to
19 encourage public participation in public utilities, the grantee shall offer to Filipino citizens, at least thirty
20 percent (30%) of its outstanding capital stock or a higher percentage that may hereafter be provided by
21 law in any securities exchange in the Philippines within five (5) years from the commencement of its
22 operations: Provided, that in cases where public offer of shares is not applicable, the establishment of
23 cooperatives and other methods of encouraging public participation by citizens and corporations

operating public utilities and/or in compliance with the requirements under Section 28 of Republic Act No. 9136 must be implemented; Provided, further that the dispersal of ownership by a parent company of the grantee shall be considered as compliance by the grantee with this provision. Non-compliance therewith shall render the franchise ipso facto revoked.

Section 18. Applicability of Existing Laws. – 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” and Republic Act No. 9136.

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

Section 20. 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.

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. 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 June 30 of the succeeding year.

Any grantee who fails to submit the requisite annual report to Congress shall be fined five hundred pesos (P500.00) per working day of non-compliance. The fine shall be collected by the ERC from said delinquent franchise grantee separate from the reportorial penalties imposed by the ERC. All proceeds from said fines

1 or penalties shall accrue to the monitoring fund of the ERC in line with its supervisory and regulatory
2 functions. The reportorial compliance certificate issued by Congress shall be required before any
3 application for permit or certificate is accepted by the ERC.

4 **Section 22. Effectivity Clause.** - This Act shall take effect fifteen (15) days from the date of its
5 publication, upon the initiative of the grantee, in the Official Gazette or in a newspaper of general
6 circulation in the Philippines.

7 **Approved.**