

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

EIGHTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 8456



INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

Telecommunications has proven to be a catalyst for growth, an engine for development, a spark plug for nation building. It is a critical component for other industries or businesses. A school providing for online learning. A hospital doing e-consultation. A bank doing online banking. An OFW keeping in touch with his family. Entertaining ourselves watching online movies and listening to streaming music on the internet. Such is the pervading need for telecommunications services in our present world. And in a country with still unserved and underserved areas, there is still a big potential for a new and upcoming telecommunications company to provide for cutting edge and world class telecommunications services for our fellow Filipinos.

This bill proposes to grant a Congressional Franchise for Telecommunications to Derecho Telecommunications Inc., to construct, install, operate and maintain, for commercial purposes, telecommunications services throughout the Philippines.

Derecho Telecommunications Inc. intends to do its share in contributing to the growth, development and nation building of our country through the introduction of state-of-the-art and appropriate technologies that will allow for an effective and efficient delivery of telecommunications services to as many Filipinos as possible, both here and abroad. With particular focus on the unserved and underserved areas, that is most in need of growth and development.

This bill is earnestly recommended for immediate approval.


XAVIER JESUS D. ROMUALDO

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INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

AN ACT

**GRANTING DERECHO TELECOMMUNICATIONS, INC. A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN
TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES.**

*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 DERECHO TELECOMMUNICATIONS INC. hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate, and maintain for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wired and/or wireless telecommunications systems including mobile, fixed line, paging, trunked radio, fiber optics, multi-channel multipoint distribution system (MMDS), local multi-point distribution system (LMDS), satellite transmit and receive systems, switches, and value added services such as transmission of voice, data, images, facsimile, control signs, audio and video, and all other telecommunications system technologies as are present available or will be made available through technological advances or innovations in the future; or construct, acquire, lease, and operate or manage transmitting and receiving stations, landing stations of submarine cables, lines, systems, or other cables as it may consider necessary and convenient to efficiently carry out the purpose of this franchise.

1 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or
2 facilities of the grantee shall be constructed and operated in a manner as will, at
3 most, result only in the minimum interference on the wavelengths or frequencies of
4 existing stations or other stations which may be established by law, without in any
5 way diminishing its own right to use its assigned wavelengths or frequencies and the
6 quality of transmission or reception thereon as should maximize rendition of the
7 grantee's services or the availability thereof.

8
9 SEC. 3. *Authority of the National Telecommunications Commission.* – The
10 grantee shall secure from the National Telecommunications Commission (NTC) a
11 Certificate of Public Convenience and Necessity or the appropriate permits and
12 licenses for the construction, installation and operation of its telecommunications
13 systems or facilities. In issuing the certificate, the NTC shall have the power to
14 regulate and impose such conditions relative to the construction, operation,
15 maintenance, or service level of the telecommunications systems or facilities. Such
16 certificate shall state the areas covered and the date the grantee shall commence
17 the service. The grantee shall not use any frequency in the radio spectrum without
18 authorization from the NTC. The NTC, however, shall not unreasonably withhold or
19 delay the grant of such authority, permit or license.

20
21 In case of any violation of the provisions of this franchise, the NTC shall have
22 the authority to revoke or suspend, after due process, the permits or licenses it
23 issued pursuant to the franchise. The NTC may recommend to Congress the
24 revocation of the franchise for any violation of the provisions of this franchise.

25
26 SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and
27 maintaining poles or other supports for said wires or other conductors for the
28 purpose of laying and maintaining underground wires, cables, or other conductors, it
29 shall be lawful for the grantee, its successor or assignee, with the prior approval of
30 the Department of Public Works and Highways (DPWH) or the local government unit
31 (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any
32 of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or
33 bridges of the province, cities, or municipalities: *Provided, however,* That a public
34 place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed,
35 altered or changed by reason of erection of poles or other supports or the

1 underground laying of wires, other conductors or conduits, shall be repaired and
2 replaced in workmanlike manner by said grantee, its successor or assignee, in
3 accordance with the standards set by DPWH or the LGU concerned. Should the
4 grantee, its successor or assignee, after the ten (10)-day notice from the said
5 authority, fail, refuse, or neglect to repair or replace any part of public place, road,
6 highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or
7 disturbed by the said grantee, its successors or assignees, then the DPWH or the
8 LGU concerned shall have the right to have the same repaired and placed in good
9 order and condition, and charge the grantee, its successor or assignee at double the
10 amount of the costs and expenses for such repair or replacement.

11
12 **SEC. 5. *Responsibility to the Public.*** - The grantee shall conform to the ethics
13 of honest enterprise and not use its stations or facilities for obscene or indecent
14 transmission, or for dissemination of deliberately false information, or willful
15 misrepresentation, or assist in subversive or treasonable acts.

16
17 The grantee shall operate and maintain all its stations, lines, cables, systems,
18 and equipment for the transmission and reception of messages, signals, and pulses
19 in a satisfactory manner at all times, and as far as economical and practicable,
20 modify, improve, or change such stations, lines, cables, systems, and equipment to
21 keep abreast with the advances in science and technology.

22
23 The grantee shall improve and extend its services in areas not yet served, and
24 in hazard- and typhoon-prone areas that shall be determined by the National
25 Disaster Risk Reduction and Management Council, or its legal successor, in
26 coordination with the NTC.

27
28 The grantee shall also improve and upgrade its equipment, facilities and
29 services, in order to ensure effective compliance with the objectives of Republic Act
30 No. 10639 or the "Free Mobile Disaster Alerts Act".

31
32 **SEC. 6. *Rates for Services.*** – The charges and rates for telecommunications
33 services of the grantee, except the rates and charges on those that may hereafter be
34 declared or considered as nonregulated services, whether flat rates or measured
35 rates or variation thereof, shall be subject to the approval of the NTC or its legal

1 successor. The rates to be charged by the grantee shall be unbundled, separable
2 and distinct among the services offered and shall be determined in such a manner
3 that regulated services do not subsidize the unregulated ones.

4
5 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource that is
6 part of the national patrimony and the use thereof is a privilege conferred upon the
7 grantee by the State and may be withdrawn any time after due process.

8
9 A special right is hereby reserved to the President of the Philippines, in times
10 of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace
11 and order: to temporarily take over and operate the stations, transmitters, facilities, or
12 equipment of the grantee; to temporarily suspend the operation of any station,
13 transmitter, facility, or equipment in the interest of public safety, security, and public
14 welfare; or to authorize the temporary use and operation thereof by any agency of
15 the government, upon due compensation to the grantee for the use of said stations,
16 transmitters, facilities, or equipment during the period when these shall be so
17 operated.

18
19 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period of
20 twenty-five (25) years from the effectivity of this Act, unless sooner revoked or
21 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the
22 grantee fails to operate continuously for two (2) years.

23
24 SEC. 9. *Right of Interconnection.* – The grantee is hereby authorized to connect
25 or demand connection of its telecommunications systems to other
26 telecommunications systems installed, operated, and maintained by any other duly
27 authorized person or entity in the Philippines for the purpose of providing extended
28 and improved telecommunications services to the public, under the terms and
29 conditions mutually agreed upon by the parties concerned. This right shall be subject
30 to the review and modification of the NTC.

31
32 SEC. 10. *Mobile Number Portability.* – The grantee shall provide mobile number
33 portability (MNP) and its implementing mechanism, and shall interconnect, directly or
34 indirectly, with the infrastructure, facilities, systems, or equipment of other
35 telecommunications franchise grantees. It shall not install network features,

1 functions, or capabilities that will impede the implementation of a nationwide MNP
2 system. The NTC shall issue rules and regulations for this purpose, the effectivity of
3 which shall commence upon applicability with other telecommunications franchise
4 grantees.

5
6 SEC. 11. *Warranty in Favor of the National and Local Governments.* - The
7 grantee shall hold the national, provincial, city, and municipal governments of the
8 Philippines free from all claims, liabilities, accounts, demands, or actions arising out
9 of accidents causing injury to persons or damage to properties, during the
10 construction or operation of the stations, transmitters, facilities, or equipment of the
11 grantee.

12
13 SEC. 12. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of*
14 *Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, nor
15 assign this franchise or the rights and privileges acquired thereunder to any person,
16 firm, company, partnership, corporation, or other commercial or legal entity, nor
17 merge with any other corporation or entity, nor shall transfer the controlling interest of
18 the grantee, simultaneously or contemporaneously, to any person, firm, company,
19 partnership or corporation organized for the same purpose without the prior approval
20 of the Congress of the Philippines. Congress shall be informed of any sale, lease,
21 transfer, grant of usufruct, or assignment of franchise or the rights and privileges
22 acquired thereunder, or of the merger or transfer of the controlling interest of the
23 grantee, within sixty (60) days after the completion of the transaction. Failure to
24 report to Congress such change of ownership shall render the franchise *ipso facto*
25 revoked.

26
27 Any corporation to which this franchise may be sold, transferred, or assigned
28 shall be subject to all conditions, terms, restrictions, and limitations of this Act.

29
30 SEC. 13. *Dispersal of Ownership.* - In accordance with the
31 constitutional provision to encourage public participation in public utilities, the grantee
32 shall offer to Filipino citizens at least thirty percent (30%) of its common stocks, or a
33 higher percentage that may hereafter be provided by law, in any securities exchange
34 in the Philippines within five (5) years from the effectivity of this Act: *Provided*, That in
35 cases where public offer of shares is not applicable, other methods of encouraging

1 public participation by citizens and corporations operating public utilities must be
2 implemented. Noncompliance therewith shall render the franchise *ipso facto*
3 revoked.

4
5 SEC. 14. *Commitment to Provide and Promote the Creation of*
6 *Employment Opportunities.*—The grantee shall create employment opportunities and
7 accept on-the-job trainees in the franchise operations: *Provided*, That priority shall be
8 accorded to the residents of the place where their principal office is located:
9 *Provided, further*, That the grantee shall ensure that at least sixty percent (60%) of its
10 employees are regular employees and in no case shall the percentage of contractual
11 employees, job orders, casuals, and independent contractors combined, exceed forty
12 percent (40%) of its total workforce: *Provided, finally*, That the grantee shall comply
13 with the applicable labor standards and allowance entitlement under existing labor
14 laws, rules and regulations, and similar issuances.

15
16 The employment opportunities or jobs created shall be reflected in the
17 General Information Sheet (GIS) to be submitted to the Securities and Exchange
18 Commission (SEC) annually. In addition, the grantee shall include in its annual report
19 to Congress the number of its regularized employees and secure a compliance and
20 clearance certificate from the Department of Labor and Employment and its relevant
21 attached agencies.

22
23 SEC. 15. *Reportorial Requirement.* – The grantee shall submit an annual
24 report on its compliance with the terms and conditions of the franchise and on its
25 operations to the Congress of the Philippines, through the Committee on Legislative
26 Franchises of the House of Representatives and the Committee on Public Services
27 of the Senate, on or before April 30 of every year during the term of its franchise.

28
29 The annual report shall include an update on the roll-out, development,
30 operation and/or expansion of business; audited financial statements; latest GIS
31 officially submitted to the SEC, if applicable; certification of the NTC on the status of
32 its permits and operations; and an update on the dispersal of ownership undertaking,
33 if applicable.

1 The reportorial compliance certificate issued by Congress shall be required
2 before any application for permit or certificate is accepted by the NTC.

3
4 SEC. 16. *Fine.* – Failure of the grantee to submit the requisite annual report to
5 Congress shall be penalized with a fine in the amount of one million pesos
6 (P1,000,000.00) per working day of noncompliance, the effectivity of which shall
7 commence upon applicability with other telecommunications franchise grantees:
8 *Provided*, That in the interim, the grantee shall be liable to pay the fine of five
9 hundred pesos (P500.00) per working day of noncompliance. The fine shall be
10 collected by the NTC from the delinquent franchise grantee separate from the
11 reportorial penalties imposed by the NTC, and the same shall be remitted to the
12 Bureau of the Treasury.

13
14 SEC. 17. *Equality Clause.* - Any advantage, favor, privilege, exemption, or
15 immunity granted under existing franchises, or which may hereafter be granted, shall
16 *ipso facto* become part of previously granted telecommunications franchises and
17 shall be accorded immediately and unconditionally to the grantees of such
18 franchises: *Provided, however*, That the foregoing shall neither apply to nor affect
19 provisions of telecommunications franchises concerning territory covered by the
20 franchise, the life span of the franchise, or the type of service authorized by the
21 franchise.

22
23 SEC. 18. *Repealability and Nonexclusivity Clause.* – This franchise shall be
24 subject to amendment, alteration, or repeal by the Congress of the Philippines when
25 the public interest so requires and shall not be interpreted as an exclusive grant of
26 the privilege herein provided for.

27
28 SEC. 19. *Separability Clause.* – If any of the sections or provisions of this Act
29 is held invalid, all other provisions not affected thereby shall remain valid.

30
31 SEC. 20. *Repealing Clause.* – All laws, decrees, orders, resolutions,
32 instructions, rules and regulations, and other issuances or parts thereof which are
33 inconsistent with the provisions of this Act are hereby repealed, amended, or
34 modified accordingly.

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

3
4 Approved,
5