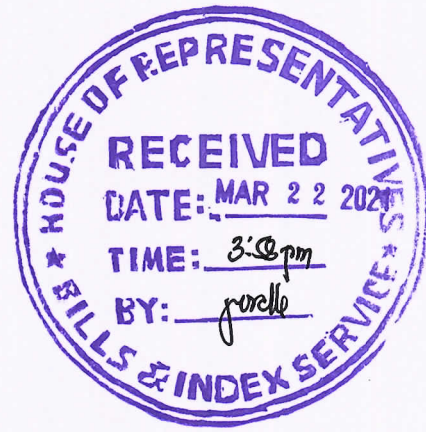


REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

EIGHTEENTH CONGRESS
Second Regular Session



HOUSE BILL NO. 9071

Introduced by REP. ENRICO A. PINEDA

EXPLANATORY NOTE

Section 24, Article II of the 1987 Constitution recognizes the vital role of communication and information in nation-building.

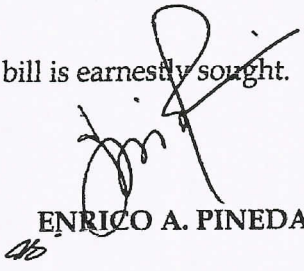
The Philippines being an archipelago, telecommunication services provide a unifying and modernizing force. It is therefore in the best interest of the State to ensure the provision of information and communications technology (ICT) infrastructure and to promote its development, especially now that the world is in the digital age.

One way the government can do so is by allowing the entry and participation of various service providers into the telecommunications industry, thereby promoting competition and innovation for the benefit of the public.

This bill seeks to grant Linkserve Telecommunications Network, Inc., or LISTEN, a franchise to construct, install, establish, maintain, lease and operate wire and/or wireless telecommunications systems throughout the Philippines.

LISTEN is a domestic telecommunications system and solutions provider that aims to provide responsive, adaptive, reliable and cost-effective information and communication services to the public. With a legislative franchise, it will be able to fully enter the telecommunications industry and provide their services to different sectors and clientele, such as government agencies, private corporations, micro, small and medium enterprises (MSMEs), educational institutions, and residences.

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


ENRICO A. PINEDA

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HOUSE BILL NO. 9071

Introduced by REP. ENRICO A. PINEDA

**AN ACT GRANTING LINKSERVE TELECOMMUNICATIONS NETWORK, INC. A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND
OPERATE WIRE AND/OR WIRELESS 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 Linkserve Telecommunications Network, Inc., hereunder referred to as the grantee, its successor or assignees, a franchise to construct, install, establish, maintain, lease and operate, for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wired or wireless telecommunications systems including mobile, cellular, fixed line, 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 information services, and all other telecommunications systems 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.

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

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

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

SECTION 4. *Excavation and Restoration Works.* – For the purposes of erecting and maintaining poles or other supports for wires or other conductors and for laying and maintaining of underground wires, cables, or other conductors, it shall be lawful for the grantee, its successors or assignees without the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, or municipalities: *Provided, however,* That a 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 and replaced in workmanlike manner by 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-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 altered, changed or disturbed by the grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed 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 conform to the ethics of honest enterprise and not use its stations or facilities for obscene or indecent transmission, or for dissemination of deliberately false information, or willful misrepresentation, or assist in subversive or treasonable acts.

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

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

SECTION 6. *Rates for Services.* – The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as nonregulated services, whether flat rates or measured rates or variations thereof, shall be subject to the approval of the NTC or its legal successor. The rates to be charged by the grantee shall be unbundled, separable, and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidize the underregulated ones.

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

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 stations, transmitters, facilities, or equipment of the grantee; to temporarily suspend the operation of any station, transmitters, facilities, or equipment of the grantee 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 the said stations, transmitters, facilities, or equipment during the period when they shall be so operated.

SECTION 8. *Term of Franchise.* – This franchise shall be in effect for a period of twenty-five (25) years from the date of the effectivity of this Act, unless sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to comply with any of the following conditions:

- (a) commence operations within three (3) years from the approval of its operating permit by the NTC;
- (b) commence operations within five (5) years from the effectivity of this Act; and,
- (c) operate continuously for two (2) years.

SECTION 9. *Renewal or Extension of Franchise.* – The grantee shall apply for the renewal or extension of its franchise three (3) years before its expiration which shall be reckoned from fifteen (15) days after the publication of the franchise in the *Official Gazette* or in a newspaper of general circulation.

SECTION 10. *Right of Interconnection.* – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated, and maintained by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under the terms and conditions

mutually agreed upon by the parties concerned. This right shall be subject to the review and modification of the NTC.

SECTION 11. *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, accounts, demands, or actions arising out of accidents causing injury to persons or damage to properties during the construction or operation of the stations, transmitters, facilities, or equipment of the grantee.

SECTION 12. *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 the controlling interest of the grantee be transferred, simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of Congress. The grantee shall inform Congress, through the Office of the Speaker of the House of Representatives and the Office of the Senate President, of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of the said transaction. Failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked. Any person or entity to which the franchise is sold, transferred, or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this act.

SECTION 13. *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%) of its common stocks, or a higher percentage that may hereafter be provided by law, in any securities exchange in the Philippines within five (5) years from the effectivity of this Act: *Provided*, That in cases where public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SECTION 14. *Commitment to Provide and Promote the Creation of Employment Opportunities.* – The grantee shall create employment opportunities and accept on-the-job trainees in its franchises operations: *Provided*, That priority shall be accorded to the residents of the place where the principal office of the grantee is located: *Provided further*, That the grantee shall ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual, job order, or casual employees, and independent contractors combined, exceed forty percent (40%) of its total workforce: *Provided, finally*, That the grantee shall comply with the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations, and similar issuances.

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. In addition, the grantee shall include in its annual report to Congress the number of trainees and workers whose employment status are made regular, and append the appropriate certificate from the Department of Labor and Employment attesting that it has complied with the employment requirement under this Section.

SECTION 15. *Reportorial Requirement.* – The grantee shall submit an annual report on its compliance with the terms and conditions of the franchise and on its operations 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 or before April 30 of every year during the term of its franchise.

The annual report shall include an update on the commencement of activities, development, operation, and expansion of business; audited financial statements; latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

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

SECTION 16. *Fine.* – Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of One Million Pesos

(P1,000,000.00) for each working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five Hundred Pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be collected separately from the reportorial penalties imposed by the NTC, and it shall be remitted to the Bureau of Treasury.

SECTION 17. *Equality Clause.* – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for telecommunications, 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 of telecommunications franchises concerning territory covered by the franchise, or the type of service authorized by the franchise.

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

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. *Repealing Clause.* – Any law, decrees, orders, resolutions, instructions, rules and regulations, and other issuances or parts thereof which are inconsistent with the provisions of 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,