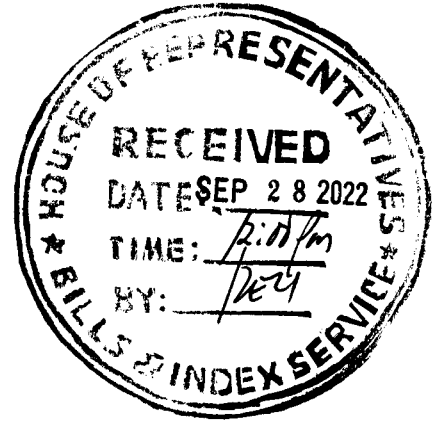




Republic of the Philippines
House of Representatives
Quezon City



NINETEENTH CONGRESS

First Regular Session

House Bill No. 5215

Introduced by

Representative Ferdinand Martin G. Romualdez
TINGOG Party-List Representative Yedda Marie K. Romualdez
TINGOG Party-List Representative Jude A. Acidre
PHILRECA Party-List Representative Presley C. De Jesus
APEC Party-List Representative Sergio C. Dagooc

AN ACT

EXTENDING THE EXISTING FRANCHISE OF THE LEYTE II ELECTRIC COOPERATIVE INC. (LEYECO II) TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE AND MAINTAIN DISTRIBUTION SYSTEMS FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITY OF TACLOBAN AND MUNICIPALITIES OF BABATNGON AND PALO, PROVINCE OF LEYTE

The LEYTE II ELECTRIC COOPERATIVE, Inc. (LEYECO II) was organized and registered pursuant to the provisions of Presidential Decree No. 269, as amended, and under the supervisory authority of the National Electrification Administration (NEA) with a mandate to perform electrification in the City of Tacloban and part of the Province of Leyte on an area coverage basis. Pursuant to Section 27 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA), the power to grant franchises shall be vested exclusively in the Congress of the Philippines. Thus, this bill seeks to grant a congressional franchise to LEYECO II to provide an electric power distribution system to the people of the **City of Tacloban and Municipalities of Babatngon & Palo**, both within the Province of Leyte. Furthermore, it seeks to require

standards that the grantee must attain in order to secure an effective partnership between the State and the grantee, as well as to set high standards for the provided facility.

The exceptional performance of LEYECO II is gathered from the results produced since it was granted a franchise to operate electric light and power services in the provinces of Babatngon, Tacloban & Palo. This covers two (2) out of forty-two (42) municipalities composing the Province of Leyte, and one (1) Highly Urbanized City. LEYECO II has energized one hundred percent (100%) of the barangays within its franchise area. Notably, LEYECO has been consistently categorized for several years as an “AAA” cooperative, the highest categorization of an electric cooperative by the supervising government agency – the NEA.

The enactment of this bill will ensure the continuous delivery of electric service from LEYECO II to the mentioned City and Municipalities and will create the path towards progress in Leyte. Likewise, it will be in line with the policy of the State as provided for in EPIRA, to ensure and accelerate the total electrification of the country; and to ensure the quality, reliability, security, and affordability of the supply of electric power.

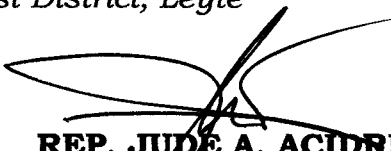
In view of the foregoing, the approval of this bill is earnestly sought.



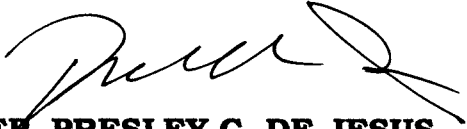
REP. MARTIN G. ROMUALDEZ
Representative, 1st District, Leyte



REP. YEDDA MARIE K. ROMUALDEZ
TINGOG Party-List Representative



REP. JUDE A. ACIDRE
TINGOG Party-List Representative



REP. PRESLEY C. DE JESUS
PHILRECA Party-list Representative



REP. SERGIO C. DAGOOC
APEC Party-list Representative



Republic of the Philippines
House of Representatives
Quezon City

NINETEENTH CONGRESS

First Regular Session

House Bill No. 5215

Introduced by

Representative Ferdinand Martin G. Romualdez

TINGOG Party-List Representative Yedda Marie K. Romualdez

TINGOG Party-List Representative Jude A. Acidre

PHILRECA Party-List Representative Presley C. De Jesus,

APEC Party-List Representative Sergio C. Dagooc

AN ACT

EXTENDING THE EXISTING FRANCHISE OF THE LEYTE II ELECTRIC COOPERATIVE INC. (LEYECO II) TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE AND MAINTAIN DISTRIBUTION SYSTEMS FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITY OF TACLOBAN AND MUNICIPALITIES OF BABATNGON AND PALO, PROVINCE OF LEYTE

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

- 1 **SECTION 1. *Nature and Scope of Franchise.*** – Subject to the provisions
2 of the Constitution and applicable laws, rules and regulations, there is hereby
3 granted to the Leyte II Electric Cooperative, Inc. (LEYECO II), hereunder referred
4 to as the grantee, its successors or assigns a franchise to construct, install,
5 establish, operate, own, manage and maintain in the public interest and
6 commercial purposes, a distribution system for the conveyance of electric power
7 to the end-users in the City of Tacloban and Municipalities of Babatngon and
8 Palo, Province of Leyte.

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

6 SECTION 2. ***Manner of Operations of Facilities.*** – All electric
7 distribution facilities, lines and systems for electric services installed, owned,
8 maintain, operated, managed or maintained by the grantee, its successors or
9 assigns shall be operated or maintained at all times in a superior manner, and
10 it shall be the duty of the grantee, its successors or assigns, whenever required
11 to do so by the Energy Regulatory Commission, hereinafter referred to as the
12 ERC, or its legal successor, or the Department of Energy, hereinafter referred to
13 as the DOE, or its legal successor, or any other government agency concerned to
14 modify, improve and change such facilities or systems in such manner and to
15 such extent as the progress in science or technology and improvements or
16 innovations in the electric power services may render reasonable and proper.

17 Whenever practicable, and for purposes of maintaining order, safety and
18 aesthetics along the highways, roads, streets, alleys or right-of-way, the grantee
19 may allow the use of free spaces in its poles, facilities, or right-of-way by
20 interested parties upon reasonable compensation to the grantee considering the
21 costs incurred to accommodate and administer the use of the grantee's facilities
22 by such parties. The ERC shall decide in case of dispute or disagreement between
23 the parties.

24 SECTION 3. ***Authority of the Energy Regulatory Commission (ERC).*** –
25 The grantee shall secure from the ERC or any government agency having
26 jurisdiction over their operations, the certificate of public convenience and
27 necessity and any other license, permit or authority indispensable for the
28 construction and operation of the electric power distribution system. The ERC
29 or any government agency vested with jurisdiction over the operations, may allow
30 the grantee to expand to surrounding areas, which are not covered by the
31 franchise granted, whenever public interest so requires.

32 SECTION 4. ***Ingress and Egress.*** – For the purpose of erecting and
33 maintaining the poles or other supports for said facilities, wires or other
34 conductors or for the purpose of laying and maintaining said facilities, wires,
35 cables or other conductors, it shall be lawful for the grantee, its successors, or
36 assignees, with the prior approval of the Department of Public Works and
37 Highways (DPWH) or the local government unit concerned, as may be

1 appropriate, to make excavations or lay conduits in any of the public places,
2 highways, roads, streets, lines, alleys, avenues, sidewalks, or bridges of the
3 province and city: Provided, however, That a public place, highway, road, street,
4 lane, alley, avenue, sidewalk, or bridge disturbed, altered, or changed by reason
5 of erection of poles or other supports or the underground laying of wires, other
6 conductors or conduits, shall be repaired and replaced in workmanlike manner
7 at the expense of the grantee, its successors or assignees, in accordance with
8 the standards set by the DPWH or the local government unit concerned. Should
9 the grantee, its successors or assignees, after the ten (10)-day notice from the
10 grant of authority, fail, refuse or neglect to repair or replace any part of public
11 place, highway, road, street, lane, alley, avenue, sidewalk, or bridge altered,
12 changed, or disturbed by the said grantee, its successors or assignees, then the
13 DPWH or the local government unit concerned shall have the right to have the
14 same repaired and replaced in good order and condition at double expense to be
15 charged against the grantee, its successors or assignees.

16 **SECTION 5. *Responsibility to the Public.*** - The grantee shall supply
17 electricity to its captive market in the least costly manner. In the interest of the
18 public good and as far as feasible and whenever required by the ERC, the grantee
19 shall modify, improve, or change its facilities, poles, lines, systems and
20 equipment for the purpose of providing efficient and reliable service and reduced
21 electricity costs. The grantee shall charge reasonable and just power rates for its
22 services to all types of consumers within its franchised areas in order that
23 business and industries shall be able to compete.

24 The grantee shall have the obligation to provide open and
25 nondiscriminatory access to its distribution system and services for any end-
26 user within its franchise area consistent with Republic Act No. 9136, otherwise
27 known as the "Electric Power Industry Reform Act of 2001". The grantee shall
28 not engage in any activity that will constitute an abuse of market power such as
29 unfair trade practices, monopolistic schemes, and other activities that will hinder
30 competitiveness of business and industries.

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

34 The grantee shall identify and segregate in its electricity bill to the end-
35 users the components of the retail rate pursuant to Republic Act No. 9136,
36 unless otherwise amended. Such rates charged by the grantee to the end-users

1 shall be made public and transparent. The grantee shall implement lifeline rate
2 to marginalized end-users as mandated under Republic Act No. 9136.

3 **SECTION 7. *Promotion of Consumer Interests*** – The herein grantee shall
4 establish a consumer desk that will handle consumer complaints and ensure
5 adequate promotion of consumer interests. The grantee shall act with dispatch
6 on all complaints brought before it.

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

16 **SECTION 9. *Right of Eminent Domain*** – Subject to the limitations and
17 procedures prescribed by law, the grantee is authorized to exercise the right of
18 eminent domain insofar as it may be reasonably necessary for the efficient
19 maintenance and operation of services. The grantee is authorized to install and
20 maintain its poles, wires, and other facilities over and across public property,
21 including streets, highways, forest reserves, and other similar property of the
22 Government of the Philippines, its branches, or any of its instrumentalities. The
23 grantee may acquire such private property as is actually necessary for the
24 realization of the purposes for which this franchise is granted: *Provided*, That
25 proper expropriation proceedings shall have been instituted and just
26 compensation paid.

27 **SECTION 10. *Term of Franchise***. – Unless sooner cancelled, the
28 franchise extension shall be in effect for a period of twenty-five (25) years from
29 the year of expiration of its existing franchise. This franchise shall be
30 deemed *ipso facto* revoked in the event the grantee fails to operate continuously
31 for two (2) years.

32 **SECTION 11. *Acceptance and Compliance***. - Acceptance of this
33 franchise shall be given in writing to the Congress of the Philippines, through
34 the Committee on Legislative Franchises of the House of Representatives and the
35 Committee on Public Services of the Senate within sixty (60) days from the

effectivity of this Act. Upon such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

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, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by 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 and damage arising from or caused by accident to persons and property 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 14. *Income Tax and Minimum Corporate Income Tax (MCIT)* – The grantee shall be permanently exempt from the payment of income tax and Minimum Corporate Income Tax or MCIT.

SECTION 15. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise*. - The grantee shall not sell, lease, transfer, grant the usufruct of, 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 corporation, or entity, or shall transfer the controlling interest of the grantee, whether as a whole or in parts, and whether simultaneously or contemporaneously, to any such person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines: *Provided*, That Congress shall be informed of any lease, transfer, granting the usufruct of, sale, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger, or sale of the controlling interest within sixty (60) days after the completion of said transaction: *Provided further*, That any such transfer, sale, or assignment is in accordance with the constitutional limitations: *Provided furthermore*, That failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked: *Provided finally*, 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 16. *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

1 of the franchise and on its operations on or before April 30 of every year during
2 the term of the franchise. The reportorial compliance certificate issued by
3 Congress shall be required before any application for permit or certificate is
4 accepted by the ERC.

5 SECTION 17. ***Fine.*** - The failure of the grantee to submit the requisite
6 annual report to Congress shall be penalized by a fine in the amount of five
7 hundred pesos (P500.00) per working day of noncompliance. The fine shall be
8 collected by the ERC from the delinquent franchise grantee separate from the
9 reportorial penalties imposed by the ERC. All proceeds from the fines or penalties
10 shall accrue to the monitoring fund of the ERC in line with its supervisory and
11 regulatory functions.

12 SECTION 18. ***Equality Clause.*** - Any advantage, favor, privilege,
13 exemption, or immunity granted under existing franchises, or which may
14 hereafter be granted, upon prior review and approval of Congress, shall become
15 part of this franchise and shall be accorded immediately and unconditionally to
16 the herein grantee: *Provided, however,* That the foregoing shall neither apply to
17 nor affect provisions concerning territory covered by the franchise, the life span
18 of the franchise or the type of service authorized by the franchise: *Provided,*
19 *further,* That the foregoing shall not apply to the sale, lease, transfer, grant of
20 usufruct, or assignment of legislative franchises with prior congressional
21 approval.

22 SECTION 19. ***Applicability Clause.*** - The grantee shall comply with and
23 be subject to the provisions of Commonwealth Act No. 146, as amended,
24 otherwise known as the "Public Service Act" and Republic Act No. 9136,
25 otherwise known as the "Electric Power Industry Reform Act of 2001".

26 SECTION 20. ***Repeatability and Non-Exclusivity Clause.*** - This
27 franchise shall be subject to amendment, alteration, or repeal by the Congress
28 of the Philippines when the public interest so requires and shall not be
29 interpreted as an exclusive grant of the privileges herein provided for.

30 SECTION 21. ***Separability Clause.*** - If any of the sections or provisions
31 of this Act is held invalid, all other provisions not affected thereby shall remain
32 valid.

33 SECTION 22. ***Repealing Clause.*** - All laws, presidential decrees,
34 executive orders, letters of instruction, administrative rules and regulations or

1 parts thereof which are contrary to or inconsistent with the provisions of this Act
2 are hereby repealed or modified accordingly.

3 SECTION 23. **Existing Powers.** – Existing mandates, powers, functions,
4 and privileges granted to Electric Cooperatives under existing laws, including
5 *Section 10 of Republic Act No. 10531*, shall remain valid and effective, unless
6 expressly repealed by succeeding laws.

7 SECTION 24. **Effectivity Clause.** - This Act shall take effect fifteen (15)
8 days after its publication in at least two (2) newspapers of general circulation.

9 *Approved,*