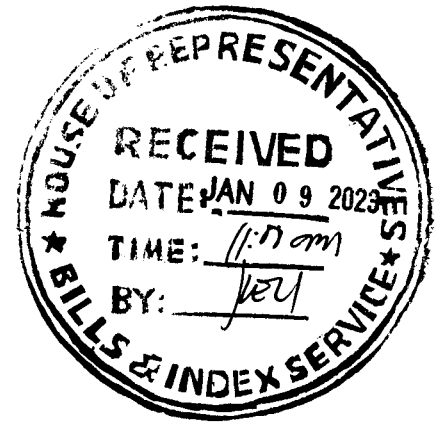


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



First Regular Session
NINETEENTH CONGRESS

HOUSE BILL NO. **6740**

Introduced by Representative Margarita Ignacia B. Nograles

EXPLANATORY NOTE

This bill seeks to expand Davao Light Power and Company, Inc. ("Davao Light")'s 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 in the Municipalities of Asuncion, Kapalong, New Corella, San Isidro and Talaingod, and in the City of Tagum and Island Garden City of Samal, all in the Province of Davao Del Norte, and the Municipality of Maco in the Province of Davao de Oro (the "Franchise Area"). This bill, in effect, shall amend the existing franchise of Northern Davao Electric Cooperative, Inc. ("NORDECO") by reducing its franchise area, in accordance with the transitory provision included in the bill.

NORDECO, formerly known as Davao del Norte Cooperative, Inc. ("DANECO"), is an electric cooperative that was granted a franchise by virtue of Certificate Nos. 017 and 103 issued by the National Electrification Administration for a period of fifty (50) years from 1978 and 1983, respectively. It was organized to provide affordable and dependable electricity over the Franchise Area. In its 2019 Annual General Membership Assembly, consumer-members agreed to rename it into a unified entity as NORDECO.

Over the years, NORDECO has suffered from losses and conflicting factions within the cooperative which have led to inadequate infrastructure, piling debts to service providers including power suppliers, cancelled power supply contracts, excessive systems losses, and failure to energize parts of its franchise area even up to this time. The Local Government Units of the Franchise Area reached out to the NORDECO Board of Directors to improve their service, and the problems of NORDECO persisted. Hence, the Local Government Units executed a joint resolution for the replacement of

NORDECO as the distribution utility in the Franchise Area, which was referred to the Department of Energy and the Energy Regulatory Commission.

With these inefficiencies in the delivery of power distribution services and failure to ensure the reliable supply of power, the Franchise Area continues to experience frequent power outages, thereby impeding economic development therein. Sadly, the Franchise Area has been left behind by its neighboring municipalities and cities, particularly, those within the franchise area of Davao Light, which have continued to enjoy stable electricity services.

In order to alleviate the plight of constituents in the Franchise Area, and consistent with the government's goals to promote maintain the public interest and pursue overall growth in Mindanao, the constituents in the Franchise Area have reached out to their local governments to cause the betterment of electric services in the Franchise Area. In turn, the local officials acted on their constituents' expressed desire to be liberated from NORDECO's long-standing poor and unreliable electric service. Such public clamor has been echoed many times in statements of support issued by the Provincial Government of Davao del Norte, business chambers, non-governmental organizations, and other stakeholders, as well as the statements of no objections issued by national agencies such as the Department of Energy and the National Electrification Administration.

In keeping with due process, NORDECO has been given ample opportunities to address the complaints of its customers, including during the initial deliberations for the original bill, House Bill No. 10554. The Philippine Rural Electric Cooperatives Association ("PHILRECA"), local government officials, and members of the business communities in the Franchise Area, likewise actively participated during the deliberations.

Despite NORDECO's explanations to the Senate, the clamor from the customers and residents in the Franchise Area remains persistent due to the increasing price of electricity in NORDECO and the continued inefficiencies of its service.

Given its stature as the third largest privately-owned electric distribution utility in the country, with respect to customer size and annual kilowatt-hour sales, as well as its track record for excellent service and close proximity to the Franchise Area, Davao Light possesses the required expertise to effectively and efficiently provide electricity distribution services in the Franchise Area considering that it is already the distribution utility serving half of the municipalities and cities in the province of Davao del Norte. The operation by Davao Light of the electricity distribution services in the Franchise Area will redound to the greater good of the residents in the Franchise Area and will bring about stable and reliable supply, and, ultimately, economic progress therein. This is also in keeping with the Constitutional power of Congress to grant and repeal franchises when the common good so requires.

Furthermore, the bill's provision to manage the transition of operations from NORDECO to Davao Light has been revised so that customers within the Franchise Area

experience secure, reliable, and cheaper electricity in the process. NORDECO's existing suppliers have the opportunity to improve generation prices resulting from the Competitive Selection Process that may be conducted by Davao Light for the Franchise Area.

In view of the foregoing, the re-passage of this timely measure is most respectfully sought.



REP. MARGARITA IGNACIA B. NOGRALES
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HOUSE BILL NO. **6740**

INTRODUCED BY REP. MARGARITA IGNACIA B. NOGRALES

AN ACT INCLUDING TAGUM CITY, THE ISLAND GARDEN CITY OF SAMAL, AND THE MUNICIPALITIES OF ASUNCION, KAPALONG, NEW CORELLA, SAN ISIDRO AND TALAINGOD, IN THE PROVINCE OF DAVAO DEL NORTE, AND THE MUNICIPALITY OF MACO, IN THE PROVINCE OF DAVAO DE ORO TO THE FRANCHISE AREA OF THE DAVAO LIGHT AND POWER COMPANY, INC., AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 11515, ENTITLED "AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO THE 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 (25) YEARS AND FOR OTHER PURPOSES"

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

SECTION 1. Section 1 of Republic Act No. 11515 is amended to read as follows:

"SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the Constitution and applicable laws, rules and regulations, the franchise granted to the Davao Light and Power Company, Inc., hereunder referred to as the [g]Grantee, its successors or assignees, under Republic Act No. 8960, to construct, install, establish, operate, and maintain for

commercial purposes and in the public interest, an electric, light, heat and power system for the conveyance, distribution and sale of electric power to the end users in Davao City, Panabo City, **TAGUM CITY. THE ISLAND GARDEN CITY OF SAMAL,** and the Municipalities of Carmen, Dujali, [and] Santo Tomas, **ASUNCION. KAPALONG. NEW CORELLA. SAN ISIDRO AND TALAINGOD** in the Province of Davao del Norte, **AND THE MUNICIPALITY OF MACO IN THE PROVINCE OF DAVAO DE ORO** is hereby extended for another twenty-five (25) years after the expiration date of the franchise under Republic Act No. 8960.

“As used in this Act, distribution system refers to the system of wires and associated facilities, including subtransmission 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.”

SEC. 2. A new section denominated as Section 21-A is inserted after Section 21 of the same Act, to read as follows:

“SEC. 21-A. TRANSITION OF OPERATIONS. – TO ENSURE THE UNINTERRUPTED SUPPLY OF ELECTRICITY, THE NORTHERN DAVAO ELECTRIC COOPERATIVE (NORDECO), IN THE INTERIM, IS AUTHORIZED TO OPERATE THE EXISTING DISTRIBUTION SYSTEM WITHIN ITS FORMER FRANCHISE AREA INCLUDED IN THE GRANTEE’S FRANCHISE AREA PURSUANT TO SECTION 1 HEREOF AS AMENDED, AND IMPLEMENT ITS EXISTING POWER SUPPLY AGREEMENTS WITH GENERATION COMPANIES THAT ARE PROVISIONALLY OR FINALLY APPROVED BY THE ERC UNTIL THE GRANTEE ESTABLISHES OR ACQUIRES ITS OWN DISTRIBUTION SYSTEM AND FULLY TAKES OVER THE OPERATIONS IN THE FRANCHISE AREA INCLUDED IN THE GRANTEE’S FRANCHISE AREA PURSUANT TO SECTION 1 HEREOF AS AMENDED. NORDECO MAY OPERATE NOT LONGER THAN TWO (2) YEARS FROM THE APPROVAL OF THE EXPANDED TERRITORY OF THIS LEGISLATIVE FRANCHISE.

“UPON COMPLIANCE WITH THE RULES, THE ERC SHALL GRANT NORDECO THE NECESSARY PROVISIONAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) COVERING THE TRANSITION PERIOD. THE ERC SHALL DETERMINE THE APPLICABLE GENERATION RATE.

“THE GRANTEE MAY CONDUCT A COMPETITIVE SELECTION PROCESS (CSP) FOR THE ELECTRICITY REQUIREMENTS IN ITS EXPANDED FRANCHISE AREA, *PROVIDED THAT* PERSONS OR ENTITIES THAT ARE SUPPLYING NORDECO ELECTRICITY, PURSUANT TO SUPPLY AGREEMENTS APPROVED OR PROVISIONALLY APPROVED BY THE ERC, AS OF THE DATE THE EXPANSION OF THE GRANTEE’S FRANCHISE AREA LAPSES INTO LAW, SHALL HAVE AN OPPORTUNITY TO IMPROVE ANY OFFER MADE BY A WINNING BIDDER IN THE GRANTEE’S CSP OVER ITS EXPANDED FRANCHISE AREA, *PROVIDED FURTHER THAT* SUCH OFFER SHOULD BE PROPORTIONATE TO THE CAPACITY OF SUCH PERSON’S OR ENTITY’S EXISTING SUPPLY AGREEMENT WITH NORDECO.

“THE PROVISIONAL AUTHORITY TO OPERATE DURING THE TRANSITION PERIOD GRANTED TO ~~THE~~ NORDECO SHALL NOT PREVENT THE GRANTEE FROM EXERCISING THE RIGHT OF EMINENT DOMAIN AS PROVIDED UNDER SECTION 9 OF THIS ACT.

“TO REDUCE THE LENGTH OF THE TRANSITION PERIOD, THE ERC AND ALL AGENCIES ISSUING THE REQUISITE LICENSES SHALL PRIORITIZE ALL APPLICATIONS OF THE GRANTEE RELEVANT TO THE ESTABLISHMENT AND OPERATION OF THE DISTRIBUTION SYSTEM UNDER ITS FRANCHISE.

“IN THE HIRING OF EMPLOYEES, THE GRANTEE SHALL, AS FAR AS PRACTICABLE AND SUBJECT TO CERTAIN QUALIFICATION STANDARDS, GIVE PREFERENCE TO FORMER EMPLOYEES OF NORDECO WHEN IT COMMENCES BUSINESS OPERATIONS IN ITS NEW FRANCHISE AREA.

“THE GRANTEE AND NORDECO SHALL JOINTLY ENSURE THAT AFFECTED EMPLOYEES NOT HIRED BY THE GRANTEE AND NOT RETAINED BY NORDECO SHALL, TO THE EXTENT ELIGIBLE, RECEIVE ALL SEPARATION OR

RETIREMENT BENEFITS IN ACCORDANCE WITH APPLICABLE LAWS.

“AN INFORMATION DISSEMINATION CAMPAIGN REGARDING PUBLIC SERVICES AND OPERATIONS OF THE GRANTEE SHALL BE MADE TO ALL END USERS IN THE FRANCHISE AREA.

“THE DOE SHALL, DURING THE TRANSITION, ENSURE THAT THE SUPPLY OF ELECTRICITY IN THE EXISTING FRANCHISE AREA IS UNINTERRUPTED.”

SEC. 3. 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.

SEC. 4. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,