

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7071



Introduced by Representative Joseph Gilbert F. Violago

EXPLANATORY NOTE

In conformity with Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EP1RA), as amended, specifically, Section 27 on the Franchising Power in the Electric Power Sector, "The power to grant franchises to persons engaged in the transmission and distribution of electricity shall be vested exclusively in the Congress of the Philippines and all laws inconsistent with this Act particularly, but not limited to, Section 43 of PO 269, otherwise known as the "National Electrification Decree," are hereby deemed repealed or modified accordingly: *Provided*, That all existing franchises shall be allowed to their full term ..." Said provision reverts back to Congress the power to grant franchises, including the power to renew or extend the term of franchises previously delegated to the National Electrification Administration.

On March 8, 2006, the National Electrification Administration, through its Board of Administrators, acting as the National Electrification Commission issued a Certificate of Franchise to Pantabangan Municipal Electric System (PAMES) to operate an electric service in the area presently comprising the Municipality of Pantabangan, Province of Nueva Ecija for a period of five (5) years or up to March 8, 2011. Consequently, to ensure a continuous, adequate, and reliable supply of electric power to the said area, it is inevitable that renewal/granting of PAMES' franchise be legislated at the soonest time possible, to serve the consumers.

Moreover, according to the 2020 Census of the Philippine Statistics Authority, the population of Pantabangan is 31,763, with a growth rate of 1.50 percent (1.50%) from 2010 to 2020. Thus, there exists a necessity for a law renewing/granting the PAMES a franchise to construct, install, establish, operate, and maintain a distribution system for the conveyance of electric power to the end-users in the Municipality of Pantabangan, Province of Nueva Ecija.

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


JOSEPH GILBERT F. VIOLAGO

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AN ACT
GRANTING THE PANTABANGAN MUNICIPAL ELECTRIC SYSTEM A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND
MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF
ELECTRIC POWER TO THE END-USERS IN THE MUNICIPALITY OF
PANTABANGAN, NUEVA ECIIJA

Be it enacted by the Senate and the 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 Pantabangan Municipal Electric System, 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, a distribution system for the conveyance of electric power to the end-users in the Municipality of Pantabangan, Nueva Ecija.

SECTION 2. *Manner of Operation of Facilities.* – All electric distribution facilities, lines and systems for electric services owned, maintained, operated or managed by the Grantee, its successors or assigns, shall be operated and maintained at all times in a superior manner, and it shall be the duty of the Grantee, its successors or assigns, whenever required to do so by the Energy Regulatory Commission (ERC), or its legal successor, or the Department of Energy (DOE), or its legal successor, or any other government agency concerned, to modify, improve and change such facilities or systems in such a manner and to such extent as the progress in science and improvements in the electric power services may render reasonable and proper.

Whenever practicable and for purposes of maintaining order, safety and aesthetics along highways, roads, streets, alleys or right-of-way, the Grantee may allow the use of free spaces in its poles, facilities or right-of-way by interested parties upon reasonable compensation to the Grantee considering cost incurred to accommodate and administer

the use of the Grantee's facilities by such parties. The ERC shall decide in case of dispute or disagreement between parties.

SECTION 3. *Authority of the Energy Regulatory Commission (ERC).* – The Grantee shall secure from the ERC or any other government agency which has jurisdiction over the operation of the herein Grantee, the necessary certificate of public convenience and necessity and other license, permit and authority indispensable for the construction and operation of its electric distribution system.

SECTION 4. *Ingress and Egress.* – For the purpose of erecting and maintaining poles and other supports for said facilities, wire or other conductors or for the purpose of laying and maintaining said facilities, wires, cables or other conductors, it shall be lawful for the Grantee, its successors or assigns, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government units (LGUs) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said provinces and/or municipalities: *Provided, however,* That any public place, highway, street, lane alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of the erection of poles or other supports, or the underground laying of wires, other conductors or conduits, shall be immediately repaired and properly restored at the expense of the Grantee, its successors or assigns, in accordance with the standards set by the DPWH and LGU concerned. Should the Grantee, its successors or assignees, after the ten (10)-day notice from the grant of authority, fail, refuse or neglect to repair or replace any part of public place, highway, road, street, lane, alley, avenue, sidewalk, or bridge altered, changed, or disturbed by the said Grantee, its successors or assignees, then the DPWH or the local government unit concerned shall have the right to have the same repaired and replaced in good order and condition and charge the Grantee, its successors or assignees, double the amount of the cost and expenses for such repair or replacement.

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

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, but not limited to, unfair trade practices, monopolistic schemes and any other activities that will hinder competitiveness of business and industries.

SECTION 6. *Rates for Services.* – The retail rates to its captive market and charges for the distribution of electric power by the Grantee to its end-user shall be regulated by and subject to the approval of the ERC or its legal successor.

The Grantee shall identify and segregate in its electricity bill to the end-users the components of the retail rate pursuant to Republic Act No. 9136, unless otherwise amended. Such rates charged by the Grantee to the end-users shall be made public and transparent. The Grantee shall implement lifeline rate to marginalized end-users as mandated under Republic Act No. 9136.

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

SECTION 8. *Right of the Government.* – 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 or facilities of the Grantee; to temporarily suspend the operation of any station or facility 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 said stations or facilities during the period when they shall be so operated.

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

SECTION 10. *Term of Franchise.* – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act. This franchise shall be deemed *ipso facto* revoked in the event that the Grantee fails to operate continuously for two (2) years.

SECTION 11. *Acceptance and Compliance.* – Acceptance of this franchise shall be given in writing to Congress, through the Committee on Legislative Franchises of the House of Representatives and the 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 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 to 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 pole and wires in safe condition.

SECTION 14. *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 15. *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 April 30 of every year during the term of the franchise. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the ERC.

SECTION 16. *Fine.* – The failure of the Grantee to submit the requisite annual report to Congress shall be penalized by a fine in the amount of Five hundred pesos (Php500.00) per working day of noncompliance. The fine shall be collected by the ERC from the delinquent franchise Grantee separate from the reportorial penalties imposed by the ERC and 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, 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 concerning territory covered by the franchise, the life span of the franchise or the type of service authorized by the franchise: *Provided, further,* That the foregoing shall not apply to the sale, lease, transfer, grant of usufruct, or assignment of legislative franchises with prior congressional approval.

SECTION 18. *Applicability Clause.* – 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, otherwise known as the “Electric Power Industry Reform Act of 2001”.

SECTION 19. *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.

SECTION 20. *Existing Powers* – Existing mandates, powers, functions, and privileges granted to electric cooperatives under existing laws, including Section 10 of RA No. 10531, otherwise known as the “National Electrification Administration Reform Act of 2013”, shall remain valid and effective, unless expressly repealed by succeeding laws.

SECTION 21. *Separability Clause.* – If for any reason, any of the sections or provisions of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 22. *Repealing Clause.* – All laws, presidential decrees, executive orders, letters of instruction, administrative rules and regulations or parts thereof which are contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 23. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,