



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila
NINETEENTH CONGRESS



Second Regular Session

House Bill No. **9684**

Introduced by
HON. RAMON C. NOLASCO, JR.
Representative, 1st District Cagayan

EXPLANATORY NOTE

This bill seeks to grant a congressional franchise to Cagayan 1 Electric Cooperative, Inc. (CAGELCO 1) to provide an electric power distribution system to the people of the City of Tuguegarao and Municipalities of Peñablanca, Enrile, Solana, Amulung, Piat, Sto. Niño, Tuao, Rizal, Iguig, Alcala and Baggao, Province of Cagayan. The bill also establishes standards that the franchise grantee must attain in order to implement an effective partnership between the government and the distribution utility as its implementing partner to achieve total electrification. As an applicant, CAGELCO 1 possesses the technical, financial and institutional capabilities to perform the electrification program in the municipalities covered by their franchises area.

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. The enactment of this bill will ensure the continuous delivery of electric service from CAGELCO 1 to the coverage area and will continue to be in the forefront of the province's economic development. Likewise, it will be in the line with the policy of the State, as provided for the EPIRA, to accelerate the total electrification of the country and guarantee the cooperative's commitment to deliver efficient, reliable, and affordable supply of electric power with the strong involvement of the member-consumer-owners (MCOs).

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



HON. RAMON C. NOLASCO, JR.
Representative
1st District, Province of Cagayan



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AN ACT
GRANTING THE CAGAYAN 1 ELECTRIC COOPERATIVE, INC. (CAGELCO
1) A FRANCHISE 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 TUGUEGARAO AND MUNICIPALITIES OF PEÑABLANCA, ENRILE,
SOLANA, AMULUNG, PIAT, STO. NIÑO, TUAO, RIZAL, IGUIG, ALCALA
AND BAGGAO, PROVINCE OF CAGAYAN

Be it enacted by the Senate and the House of Representatives of the Republic 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 the Cagayan 1 Electric Cooperative, Inc. (CAGELCO 1), hereunder referred to as the grantee, its successors or assigns a franchise to construct, install, establish, operate, own, manage and maintain in the public interest and commercial purposes, a distribution system for the conveyance of electric power to the end-users in the City of Tuguegarao and Municipalities of Peñablanca, Enrile, Solana, Amulung, Piat, Sto. Niño, Tuao, Rizal, Iguig, Alcala and Baggao, Province of Cagayan.

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

SECTION 2. ***Manner of Operation of Facilities.*** – All electric distribution facilities, lines and systems for electric services installed, owned, maintained, operated, managed by the grantee its successors or assigns shall be operated or 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, hereinafter referred to as the ERC, or its legal successor, or the Department of Energy, hereinafter referred to as the DOE, or its legal successor, or any other government agency concerned to modify, improve and change such facilities or systems in such manner and to such extent as the progress in science or technology and improvements or innovations in the electric power services may render reasonable and proper.

Whenever practicable, and for purposes of maintaining order, safety and aesthetic along the 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 the costs 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 the parties.

SECTION 3. ***Authority of the Energy Regulatory Commission (ERC).*** – The grantee shall secure from the ERC or any government agency having jurisdiction over their operations, the certificate of public convenience and necessity and any other license, permit or authority indispensable for the construction and operation of the electric power distribution system.

SECTION 4. ***Ingress and Egress.*** – For the purpose of erecting and maintaining the poles or 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 assignees, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, highways, road, streets, lines, alleys, avenues, sidewalks, or bridges of the province and city: Provided, however, that a public place, highway, road, 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 at the expense of the grantee, its successors or assignees, in accordance with the standards set by the DPWH or the local government unit 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 at double expense to be charged against the grantee, its successors or assignees.

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 area in order that business and industries shall be able to compete.

The grantee shall have the obligation to provide open and nondiscriminatory 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 unfair trade practices, monopolistic schemes, and other activities that will hinder competitiveness of business and industries.

SECTION 6. *Rates for Services.* – The retail rates and charges for the distribution of electric power by the grantee to its end-users 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 the stations or facilities during the period when these 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 expropriation proceedings shall have been instituted and just compensation paid.

SECTION 10. ***Term of Franchise.*** – This franchise shall be in effect for a period of twenty-five (25) years from the date of effectivity of this Act, unless sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the event 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 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 within sixty (60) days from the effectivity of 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. ***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 (P500.00) 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. All proceeds from the fines or penalties shall accrue to the monitoring fund of the ERC in line with its supervisory and regulatory functions.

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

SECTION 21. ***Repealing Clause.*** – All laws, presidential decrees, executive orders, letters of instruction, administrative rules and regulations or parts thereof which is are contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 22. ***Existing Powers.*** - Existing mandates, powers, functions, and privileges granted to Electric Cooperatives under existing laws, including *Section 10 of Republic Act No. 10531*, shall remain valid and effective, unless expressly repealed by succeeding laws.

SECTION 23. ***Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved,