

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 10888



Introduced by
HON. EDGAR M. CHATTO, First District, Bohol
HON. MARIA VANESSA C. AUMENTADO, Second District, Bohol
HON. KRISTINE ALEXIE BESAS-TUTOR, Third District, Bohol

EXPLANATORY NOTE

This bill seeks to grant BOHOL LIGHT COMPANY, INC. (BLCI) a franchise to acquire, establish, operate, and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to end users in Tagbilaran City, Province of Bohol.

BLCI currently has a franchise granted by the National Electrification Commission that will expire on 19 October 2025 next year. BLCI now seeks the grant of a legislative franchise from Congress to allow BLCI to continue its operations as a distribution utility in the franchise area.

BLCI is currently owned by a consortium composed of SPC Power Corporation (SPC), SPC Light Company, Inc., ARCC Investments Inc., Pure and Pam Inc., and Mr. Joven T. Uy (the "SPC Consortium"), and by the Provincial Government of Bohol (PGB), which own seventy percent (70%) and thirty percent (30%), respectively. The SPC Consortium now wishes to focus on other endeavors and has agreed to the offer of the Prime Strategic Group to sell its entire seventy percent (70%) shareholding to Primelectric Holdings Inc. (PHI). The shares of the SPC Consortium were offered first to the PGB but the PGB, through its *Sangguniang Panlalawigan*, has waived its right to acquire the shares of the SPC Consortium in BLCI. The PGB will continue to maintain its thirty percent (30%) shareholdings in BLCI.

PHI is a wholly owned subsidiary of Prime Strategic Holdings Inc. (PSHI), and is a sister company of MORE Electric and Power Corporation (MORE Power) which is the distribution utility in Iloilo City. PHI was established as a holding company for the power distribution industry investments of PSHI. Once PHI takes over the control of BLCI, it will allow BLCI to be managed and led by the same management group and technical team behind MORE Power. It will also be backed up by the financial resources of PSHI, the same Group that owns or controls publicly listed companies: Bloomberry Resorts Corporation (BLOOM), Manila Water Company, Inc. (MWC), and Apex Mining Company Inc. (APX). This Group has demonstrated the capability to turn around the decrepit and neglected distribution system in Iloilo City and was able to quickly stabilize, rehabilitate, upgrade and expand its operating capacity and service. Systems loss has been reduced, more than 38,000 new customers have been added to the consumer base as of date, and the power cost has been brought down in that area within only two (2)

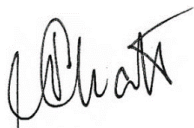
years from its takeover of the decrepit and neglected distribution facilities. The local government officials in Iloilo City and adjacent city and municipalities have attested to and endorsed the good deeds and accomplishments of this Group.

The good service record of MORE Power encouraged the local government units of the surrounding municipalities around Iloilo City to seek the expansion of MORE Power's franchise to include the Municipalities of Alimodian, Leganes, Leon, New Lucena, Pavia, San Miguel, Santa Barbara and Zarraga, all in the 2nd District of Iloilo, and the Municipalities of Anilao, Banate, Barotac Nuevo, Dingle, Duenas, Dumangas and San Enrique and the City of Passi, all in the 4th District of Iloilo. Acting on this popular clamor, Congress passed Republic Act No. 11918, an amendment of the franchise of MORE Power to expand its coverage to the said Municipalities and the City. The Supreme Court has recently reported its decision affirming the validity of RA 11918 declaring that an electric cooperative cannot claim an exclusive franchise as it would violate the Constitution.

PSHI, through PHI, also controls Negros Electric and Power Corp. (NEPC), which was recently granted a franchise to be the distribution utility in the Cities of Bacolod, Silay, Talisay, and Bago and in the Municipalities of Murcia and Don Salvador Benedicto, all in the province of Negros Occidental. NEPC is a joint venture of PHI with the Central Negros Electric Cooperative Inc. (CENECO) to acquire, rehabilitate, expand and operate the distribution system in the franchise area. There CENECO recognized its limitations and the capability of the PSHI Group to immediately turn around and rehabilitate the power distribution in Bacolod City and Central Negros. PHI will own seventy percent (70%) of NEPC while CENECO will own thirty percent (30%) of NEPC.

Considering that BLCI possesses the required capability, through the PSHI Group, it is apt for the Congress to grant Bohol Light Company, Inc. the franchise to acquire, establish, operate, and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to end users in Tagbilaran City, province of Bohol.

The Support of the Members of Congress for the prompt and timely passage of this measure is earnestly sought.


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AN ACT GRANTING BOHOL LIGHT COMPANY, INC. A FRANCHISE TO ACQUIRE, 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 CITY OF TAGBILARAN, PROVINCE OF BOHOL, AND ENSURING THE CONTINUOUS AND UNINTERRUPTED SUPPLY OF ELECTRICITY IN THE FRANCHISE AREA

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

SEC. 1. Nature and Scope of Franchise. - Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to Bohol Light Company, Inc., hereunder referred to as the Grantee, its successors or assignees, a franchise to construct, install, establish, operate, own, manage and maintain in the public interest and for commercial purposes, a distribution system for the conveyance of electric power to end users in the City of Tagbilaran, Province of Bohol.

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. Manner of Operation of Facilities. — All electric distribution facilities, lines and systems for electric services installed, owned, maintained, operated, or managed by the Grantee shall be operated and maintained at all times in a superior manner. It shall be the duty of the Grantee, its successors or assignees, to continuously improve its facilities and employ the latest technology and innovations that promote efficiency and which is beneficial to consumers. It shall comply with the standards set by the Energy Regulatory Commission (ERC) such as those found in the Philippine Distribution Code, its resolutions, and other issuances. The Grantee shall also implement measures required by the ERC, the Department of Energy (DOE), or their legal successors, or any other government agency concerned, to modify, improve, upgrade and change such facilities, systems or the management and maintenance thereof.

Whenever practicable and for purposes of maintaining order, safety, and aesthetics along highways, roads, streets, alleys, or easements, the Grantee may allow the use of its poles, facilities, or easements by interested parties upon the payment of reasonable compensation to the Grantee, considering costs incurred to accommodate and administer the use of the Grantee's facilities by such parties. The ERC shall resolve cases of disputes or disagreements between and among the parties concerned.

SEC. 3. Authority of the Energy Regulatory Commission. – 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 (CPCN) and other appropriate permits and licenses for the construction and operation of its electric distribution system.

SEC. 4. Excavation and Restoration Works. – For the purpose of erecting, maintaining poles and other supports for wires or other conductors for the laying and maintaining of underground wires, cable, pipes or other conductors, the Grantee, its successors or assignees, is authorized to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of said province, cities and/or municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or the relevant local government unit (LGU) concerned, Provided, however, That any public place, road, 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 repaired or replaced in a workmanlike manner at the expense of the Grantee, its successors or assignees, in accordance with the standards set by the DPWH or the relevant LGU concerned. Should the Grantee, its successors or assignees, after the ten- (10) day notice from the said authority, fail, refuse or neglect to repair or replace any part of a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been disturbed, altered, or changed by the said Grantee, its successors or assignees, then the DPWH or the relevant LGU concerned shall have the right to have the same repaired or replaced in good order and condition and charge the Grantee, its successors or assignees, at double the amount of the costs and expenses incurred for such repair or replacement.

SEC. 5. Responsibility to the Public. – The Grantee shall supply electricity to its captive market in the urban and rural portions of its franchise area 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 franchise area in order that business and industries shall be able to compete.

The Grantee is required to source and procure its power requirements in accordance with the applicable rules and resolutions of the ERC.

The Grantee shall have the obligation to provide open and non-discriminatory access to its distribution system and services to 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 any other activities that will hinder competitiveness of businesses and industries.

SEC. 6. Rates for Service. — 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 RA 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 a lifeline rate to marginalized end users, as mandated by RA No. 9136.

The Grantee shall strictly comply with the systems loss cap prescribed by the ERC.

SEC. 7. Protection of Consumer Interests. — The Grantee shall establish a customer desk that will handle consumer complaints and ensure adequate protection of consumer interests. The Grantee shall act with dispatch on all such complaints brought before it.

The Grantee shall reduce the duration and frequency of interruptions in its network and in that regard shall observe the System Average Interruption Frequency Index (SAIFI) and System Average Interruption Duration Index (SAIDI) imposed by the ERC.

SEC. 8. Election of Independent Directors. — The Board of the Grantee shall have independent directors constituting at least twenty percent (20%) of its total membership. These directors must be elected by a majority of the outstanding shares entitled to vote.

An independent director is a person who, apart from shareholdings and fees received from the corporation, is independent of management and free from any business or other relationship which could, or could reasonably be perceived to materially interfere with the exercise of independent judgment in carrying out the responsibilities as a director.

SEC. 9. 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 distribution system 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 the payment of due compensation to the Grantee for the use of said distribution system during the period when it shall be so operated.

SEC. 10. Right of Eminent Domain. — Subject to the limitations and procedures prescribed by law, the Grantee is authorized to exercise the power of eminent domain insofar as it may be reasonably necessary for the efficient establishment, improvement, upgrading, rehabilitation, maintenance and operation of its services. The Grantee is authorized to install and maintain its poles, wires, and other facilities over, under and across public property, including streets, highways, parks, and other similar properties 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, for the operation of a distribution system for the conveyance of electric power to end users in its franchise area; Provided, That proper expropriation proceedings shall have been instituted and just compensation paid.

SEC. 11. Term of the Franchise. — This franchise shall be for a term of twenty-five (25) years from the effectivity of this Act, unless sooner cancelled or revoked. This franchise shall be deemed ipso facto revoked in the event that the Grantee fails to operate continuously for two (2) years upon issuance of the CPCN by ERC.

SEC. 12. 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 acceptance, the Grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

The Grantee shall apply for the renewal or extension of its franchise five (5) years before its expiration date.

SEC. 13. 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, demands, or actions arising out of accidents that cause injury to persons and damage to properties, during the construction, installation, operation, and maintenance of the distribution system of the Grantee.

SEC. 14. Liability for Damages. - The Grantee shall be liable for any injury to persons and damage to property arising from or caused by any accident arising from any defective construction of any infrastructure built pursuant to the operation of its business under this franchise, or by any neglect or failure to keep its poles and wires in safe condition.

SEC. 15. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of the 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 transfer the controlling interest of the Grantee, whether as a whole or in part, and whether simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines; Provided, That, Congress shall be informed of any sale, lease, transfer, grant of usufruct of, or assignment of the franchise or the rights and privileges acquired thereunder, or of the merger, or transfer of the controlling interest within sixty (60) days after the completion of said transaction: Provided further, That any such sale, lease, transfer 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 the limitations set forth in this section shall not apply to: (a) any transfer or issuance of shares of stock in the implementation of the requirement for the dispersal of ownership in the Grantee pursuant to Section 16 of this Act; and (b) any sale, transfer, or assignment of shares of the Grantee in favor of an affiliate whose controlling interest is owned by the same parent corporation of the Grantee.

Any person or entity to which this franchise is sold, leased, transferred, or assigned, shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 16. Dispersal of Ownership. – In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to the public, specifically Filipino citizens, at least twenty percent (20%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the grant of its CPCN by the ERC; Provided, That in cases where a public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented; Provided that ownership by the Provincial Government of Bohol ("PGB") of at least twenty percent (20%) of the outstanding capital stock of the Grantee shall be deemed a compliance with the dispersal of ownership requirement.

In the event the required dispersal of ownership is not implemented within five (5) years from the grant of its CPCN, the holdings of persons, natural or juridical, including directors, officers, stockholders, and related interests in the Grantee and its respective holding company, if any, shall not exceed twenty-five percent (25%) of the voting shares of stock, unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine stock exchange, Provided, that, the ERC may, upon application of the Grantee, and after notice and hearing, allow such reasonable extension of the five- (5-) year period within which the Grantee should offer its shares of stock to the public, if the market conditions are not suitable for such listing or in the event that the Grantee cannot comply with the requirements of the Securities and Exchange Commission (SEC) or the Philippine Stock Exchange (PSE) for a public offering, especially the three- (3-) year profitability requirement.

Non-compliance therewith shall render the franchise ipso facto revoked.

SEC. 17. Commitment to Provide and Promote the Creation of Employment Opportunities. – The Grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operations: Provided, That priority shall be accorded to the residents of the franchise area: Provided, Further, That the Grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: Provided, Finally, That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the SEC annually.

SEC. 18. 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 of 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 the succeeding year.

The annual report shall include an update on the rollout, development, development, operation and/or expansion of the business; audited financial statements; latest GIS officially submitted to the SEC (if available or applicable), certification from the ERC on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

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

The ERC shall, one (1) year from the grant of this franchise and every five (5) years thereafter, conduct a comprehensive assessment on the Grantee's operations and compliance with the conditions imposed hereunder and shall submit a report thereof to Congress. The Grantee shall submit to the ERC all information and documents necessary to complete such assessment.

SEC. 19. Fine. – Failure of the Grantee to submit the requisite annual report to Congress shall be penalized by a fine of Five Hundred Pesos (Php 500.00) per working day of noncompliance. The fine shall be collected by the ERC from the Grantee separate from the reportorial penalties imposed by the ERC and the same shall be remitted to the National Treasury.

SEC. 20. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted to power distribution franchises, 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, That the foregoing shall neither apply to nor affect provisions concerning territorial coverage, the term, or the type of service authorized by the franchise.

SEC 21. Applicability of Existing Laws. - The Grantee shall comply with and be subject to the relevant provisions of Commonwealth Act No. 146, or the "Public Service Act" as amended, and Republic Act No. 9136.

SEC. 22. 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.

SEC. 23. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 24. Repealing Clause. – 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. 25. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,