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HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS

First Regular Session

HOUSE BILL NO. 2918



INTRODUCED BY

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EXPLANATORY NOTE

Cotabato Electric Cooperative Inc. (COTELCO) was organized last May 16, 1972 pursuant to the provisions of Presidential Decree 269 as amended. It is under the supervisory authority of the National Electrification Administration, with a mandate of total electrification on an area coverage basis. COTELCO was issued an electric distribution franchise last December 12, 1979 by the National Electrification Commission to operate electric light and power for a period of fifty (50) years in the Municipalities of Carmen, Kabacan, Kidapawan, Magpet, Makilala, Matalam, M'lang, President Roxas and Tulanun, all in the Province of Cotabato. On February 9, 1995, the National Electrification Commission issued NEC Resolution No. 1, granting the request for expansion of franchise in the Municipality of Arakan, Cotabato. The duration of the said franchise expansion was for a period of fifty (50) years reckoned from December 12, 1979, the date the original franchise was issued.

COTELCO has again applied for expansion of franchise to operate electric light and power in the Municipalities of Antipas and Banisilan, Cotabato. By virtue of National Electrification Commission (NEC) Resolution No. 23, dated January 22, 1990, the said request was granted and as a consequent, a certificate of franchise was issued on the same date the NEC issued its resolution, for a term of fifty (50) years.

Pursuant to Section 27 of Republic Act 9136, otherwise known as the Electric Power Industry Reform Act, the power to grant franchises shall be vested exclusively in Congress of the Philippines. Thus, this bill seeks to extend the electric distribution franchise of COTELCO for another twenty-five (25) years in order to continue providing electric light and power to the eleven Municipalities and one (1) city within the Province of Cotabato. In its continued existence, it seeks to require standards that the grantee must attain in order to secure an effective partnership between the state and the grantee COTELCO.

The outstanding performance of COTELCO is a result of the franchise issued to operate electric light and power. COTELCO has energized **one hundred (100%) percent** of the Barangays within its coverage area and has lighted more than **Two Hundred (200,000) Thousands of households**. COTELCO has been categorized for several years as a "AAA" Cooperative, the highest categorization of an electric cooperative by the National Electrification Administration- the supervising government agency.

The request of COTELCO BOARD of DIRECTORS, OFFICERS and MANAGEMENT in extending the electric distribution franchise was supported by more than **thirty-seven thousand (37,000) member-consumers in attendance** during the conduct of its 38th annual general membership assembly held last July 10, 2022 at NCECCO Gym, Manubuan, Matalam, Cotabato.

Further, the enactment of this bill will ensure continuous delivery of electric service from COTELCO to the eleven Municipalities and one city enumerated above. Furthermore, it will bring forth progress in the Province of Cotabato. More so, it is in accord with the policy of the state as provided in the EPIRA Law to ensure and accelerate the total electrification of the country and to ensure the quality, reliability, security and affordability of electric power supply.

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

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HOUSEBILL No. **2918**

BY REPRESENTATIVES MA. ALANA SAMANTHA T. SANTOS, EDWIN L. CRUZADO and RAYMOND DEMOCRITO C. MENDOZA (TUCP Partylist Representative)

AN ACT GRANTING A FRANCHISE TO THE COTABATO ELECTRIC COOPERATIVE, INC. 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 KIDAPAWAN AND MUNICIPALITIES OF ANTIPAS, ARAKAN, BANISILAN, CARMEN, KABACAN, MAGPET, MAKILALA, MATALAM, MLANG, PRESIDENT ROXAS AND TULUNAN, PROVINCE OF COTABATO

Be it enacted by the Senate and 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 COTABATO ELECTRIC COOPERATIVE, INC., 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 Kidapawan and Municipalities of Antipas, Arakan, Banisilan, Carmen, Kabacan, Magpet, Makilala, Matalam, Tulunan and President Roxas, Province of Cotabato .

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, operated, managed or maintained by the Grantee, its successors or assignees, shall be operated and maintained at all times in a superior manner, and it shall be the duty of the Grantee, its successors or assignees, 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

the National Electrification Administration (NEA), 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 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 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 decide in case of dispute or disagreement between the parties.

Section 3. Authority of the Energy Regulatory Commission and NEA. - The Grantee shall secure from the ERC or the NEA any other government agency having jurisdiction over the operations, the certificate of public convenience and necessity and any other license, permit or authority indispensable for the construction and operation of its electric distribution system.

Section 4. Excavation and Restoration Works. - For the purpose of erecting, maintaining poles and other supports for wires or other conductors, or for the purposes of laying and maintaining underground wires, cables, pipes or other conductors, the Grantee, its successors or assignees, are 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 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, the DPWH or the 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 expense incurred for such repair or replacement.

Section 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 cost 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 businesses 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 (RA) 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 businesses and industries.

Section 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 for marginalized end-users as mandated by RA No. 9136.

Section 7. Promotion of Consumer Interests. - The herein 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.

Section 8. Commitment to Provide and Promote the Creation of Employment Opportunities. - The Grantee shall create employment opportunities and shall allow on-the-job training in their franchise operation: *Provided*, That priority shall be accorded to the residents where their principal office is located: *Provided, further*, That the Grantee shall comply with the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations, and similar issuances.

Section 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.

Section 10. 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 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: *Provided*, That proper expropriation proceedings shall have been instituted and just compensation paid.

Section 11. *Term of the Franchise.* - Unless sooner cancelled or revoked, this franchise shall be in effect for a period of twenty-five (25) years from the 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 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, liabilities, demands, or actions arising out of accidents that cause injury to persons and damage to property during the construction, installation, operation, and maintenance of the distribution system of the Grantee. *Lawphil*

Section 13. *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.

Section 14. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of the Franchise.* - The Grantee shall not sell, lease, transfer, grant to 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 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: *Provided*, That the Congress shall be informed of any sale, transfer, grant of usufruct of, sale, or assignment of the 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 Franchise 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 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 with a fine in the amount of Five hundred pesos (P500.00) per working day of non-compliance which shall be collected by the ERC. The fine shall be collected separately 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 territorial coverage, the term, or the type of service authorized by the franchise: *Provided, further,* That the foregoing shall not apply to sale, lease, transfer, grant of usufruct, or assignment of legislative franchises with prior congressional approval.

Section 18. *Applicability of Existing Laws.* - The Grantee shall comply with and be subject to the relevant provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Services Act", RA No. 9136, and Republic Act No. 10531 or the "National Electrification Administration Reform Act of 2013".

Section 19. *Repealability and Non-Exclusivity Clause.* - This franchise shall be subject to amendment, alteration, or repeal by Congress 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 any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

Section 22. *Repealing Clause.* - All laws, presidential decrees, executive orders, letter of instruction, and 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 after fifteen (15) days following its publication in the Official Gazette or in a national newspaper of general circulation.