



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

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 3329

Introduced by : **Rep. Ma Isabel L. Sagarbarria**



EXPLANATORY NOTE

The Negros Oriental I Electric Cooperative, Inc. (NORECO I) was organized by the Provincial Electric Cooperative Team and the National Electrification Administration (NEA) in 1972. In the same year, NORECO I was incorporated under Certificate of Registration No. 28 issued by NEA, which will expire on December 19, 2029.

For over fifty-two (52) years, NORECO I has been providing electricity to the various cities and municipalities in the Province of Negros Oriental, namely the Cities of Bais, Guihulngan and Canlaon and Municipalities of Mabinay, Manjuyod, Bindoy, Ayungon, Tayasan, Jimalalud, La Libertad, and Vallehermoso.

Pursuant to Section 27 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA), 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.

Thus, this bill seeks to grant congressional franchise to NORECO I to provide an electric power distribution system to the constituents of the above-mentioned cities and municipalities. This bill also sets the highest standards that NORECO I must adhere to promote efficient and effective operations and maintenance of their electric distribution facilities, lines and systems in service of our people.

Through time, NORECO I has expanded its coverage in the province, taking pride in lighting homes located in far-flung and mountainous areas. In fact, all barangays in their coverage are already energized. It has remained true to its mandate in providing prompt, efficient, and reliable quality service at reasonable price.

The enactment of this bill will guarantee the continuity of the delivery of electric service of NORECO I to the Province of Negros Oriental, in particular, and ensure total electrification in the province, in general

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



MA ISABEL L. SAGARBARRIA
Representative, 2nd District, Negros Oriental



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AN ACT

GRANTING A FRANCHISE TO THE NEGROS ORIENTAL I ELECTRIC COOPERATIVE INC. (NORECO I) TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE AND MAINTAIN DISTRIBUTION SYSTEMS FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITIES OF BAIS, CANLAON AND GUIHULNGAN AND MUNICIPALITIES OF MABINAY, MANJUYOD, BINDOY, AYUNGON, TAYASAN, JIMALALUD, LA LIBERTAD AND VALLEHERMOSO PROVINCE OF NEGROS ORIENTAL

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 NEGROS ORIENTAL I ELECTRIC COOPERATIVE, INC. (NORECO I), 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 Cities of Bais, Guihulngan and Canlaon and Municipalities of Mabinay, Manjuyod, Bindoy, Ayungon, Tayasan, Jimalalud, La Libertad and Vallehermoso, Province of Negros Oriental.

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 Operations of Facilities. - All electric distribution facilities, lines and systems for electric services installed, owned, operated, managed or maintained by the Grantee

shall be operated or maintained at all times in a best 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 the 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 its legal successor, or the National Electrification Administration (NEA) or its legal successor, or any other government agency concerned to modify, improve, upgrade and change such facilities or systems in such manner and to such extent as the progress in science or technology and improvements or innovation 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 easements, the Grantee may allow the use of its poles, facilities, or easements by interested parties upon 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 dispute or disagreement between parties.

SECTION 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.

SECTION 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 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, at double the amount of the costs and expenses 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 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 complete.

The Grantee is required to source and procure its power requirements in accordance with the applicable rules and resolutions of the ERC. Provided, that, the Grantee, immediately after the enactment of this Act, may be allowed to avail of the negotiated procurement of emergency power supply under the applicable circulars, rules, or regulations issued by the DOE or the ERC, or their legal successors, allowing emergency procurement: Provided further, That, such emergency contracts, shall only be for a period of one (1) year and the rates must not be higher than the latest ERC-approved generation tariff for the same or similar technologies in the area.

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 (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 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 itemize the components of its 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 lifeline rate to marginalized end-users as mandated under RA 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.

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.

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, including but not limited to poles, wires, cables, transformers, switching equipment and stations, buildings, infrastructure, machineries and equipment previously, currently or actually used, or intended to be used, or have been abandoned, unused or underutilized, or which obstruct its facilities, 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.

SECTION 10. Term of Franchise. - Unless sooner cancelled, the 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 the Grantee fails to operate continuously for two (2) years upon issuance of the CPCN by ERC.

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 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 from accidents causing injury to persons or damage to properties, during 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 to persons and damage to properties arising from accidents 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 Congress, 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 annual report shall include an update on the rollout, 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

The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NEA and 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 noncompliance 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 the 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 of Existing Laws. - The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146 or the "Public Service Act", as amended; Republic Act No. 9136; "and shall be under the *regulatory and supervisory authority* of the National Electrification Administration under 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, 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 Clause. - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,