

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 3928



Introduced by Rep. Imelda Quibranza Dimaporo and Rep. Sittie Aminah Q. Dimaporo

EXPLANATORY NOTE

The Lanao del Norte Electric Cooperative (LANECO) is a duly authorized distribution utility and holder of Exclusive Certificates of Franchise from the National Electrification Commission to convey electricity to end users in most of the municipalities of Lanao del Norte. Pursuant to Section 27 of Republic Act 9136, otherwise known as the EPIRA Law, the power to grant franchises shall be vested exclusively in the Congress of the Philippines. Hence, this bill seeks to grant a congressional franchise to LANECO to realize the One Province, One Electric Cooperative. The new franchise will include the municipalities serviced by the Lanao del Sur Electric Cooperative (LASURECO) but are part of the Province of Lanao del Norte.

To properly address the electricity problems in the Province of Lanao del Norte, LANECO promises to the people of Lanao del Norte that it will perform its duties and functions in accordance to its mandate. LANECO's 44 years is a testament to its commitment to the people of the Province of Lanao del Norte, and with the addition of the remaining towns of Lanao del Norte to the service area of LANECO, the One Province, One Electric Cooperative directive should be fully attained.

The enactment of this bill will not only pave the way to the full development and success of LANECO but it will also bring forth progress to the Province of Lanao del Norte. The whole province of Lanao del Norte will be serviced by its very own homegrown electric cooperative and the commitment of LANECO to the people to provide the best service in terms of quality and efficient electricity service will therefore be beneficial to the whole province.

The existing franchises of both the LANECO and LASURECO, upon the approval of this bill, will therefore be modified accordingly in lieu of the congressional franchise granted to LANECO.

As a refiled bill from the previous Congress, and in view of the foregoing, the approval of this bill is earnestly sought.


IMELDA QUIBRANZA DIMAPORO
First District, Lanao del Norte


SITTIE AMINAH Q. DIMAPORO
Second District, Lanao del Norte

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 3928

Introduced by Rep. Imelda Quibranza Dimaporo and Rep. Sittie Aminah Dimaporo

AN ACT GRANTING THE LANA DEL NORTE ELECTRIC COOPERATIVE A FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN ALL THE MUNICIPALITIES OF THE PROVINCE OF LANA DEL NORTE

Be it enacted by the Senate and 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 the Lanao del Norte Electric Cooperative (LANECO), hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate, and maintain for commercial purposes and in the public interest, a power distribution system for the conveyance of electric power to the end users in the municipalities of Bacolod, Baloi, Baroy, Kapatagan, Kauswagan, Kolambugan, Lala, Linamon, Magsaysay, Maigo, Matungao, Munai, Nunungan, Pantao Ragat, Pantar, Poona Piagapo, Salvador, Sapad, Sultan Naga Dimaporo, Tagoloan, Tangcal, and Tubod in the Province of Lanao del Norte.

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-user.

SECTION 2. *Manner of Operations of Facilities.* - All electric distribution facilities, lines, and systems for electric services owned, maintained, operated, or managed by the grantee, its successors or assignees, shall be operated and maintained at all times in the best 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 authorized government agency, 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 service industry 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. The ERC or the NEA shall resolve cases of dispute or disagreement between parties.

SEC. 3. Authority of the Energy Regulatory Commission (ERC) and the National Electrification Administration (NEA). - The grantee shall secure from the ERC or the NEA, or any other government agency which has jurisdiction over the operation of the herein grantee, the requisite certificate of public convenience and necessity 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 and maintaining poles and other supports for wires or other conductors for the laying and maintaining underground wires, cables, 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 local government units (LGUs) concerned: *Provided*, however, That any public place, road, highway, 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 or 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 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 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 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 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 franchised areas.

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 any other activities that will hinder competitiveness of businesses and industries.

The exercise of the rights granted herein shall not result to stranded assets and stranded contract costs of existing and operating distribution utilities nor to unreasonable increases in costs to consumers.

SEC. 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 be subject to the approval of the ERC or its legal successor.

The grantee shall identify and itemize in its billing statement to end users the components of the retail rate charged pursuant to Republic Act No. 9136. 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 under Republic Act No. 9136.

SEC. 7. *Protection of Consumer Interests.* - The herein grantee shall establish a consumer desk that will handle consumer complaints and ensure adequate protection of consumer interests. The grantee shall act with dispatch on all complaints brought before it.

SEC. 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 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 due compensation to the grantee, for the use of said distribution system during the period when these shall be so operated.

SEC. 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.

SEC. 10. *Term of Franchise.* -This franchise shall be for a term of twenty-five (25) years from the date of the effectivity of this Act, unless sooner revoked or cancelled by Congress for any violation of the terms and or provisions of the franchise herein granted.

SEC. 11. *Renewal or Extension of Franchise.* - The grantee shall apply for the renewal or extension of its franchise five (5) years before its expiration, reckoned from fifteen (15) days after the publication of the franchise in the Official Gazette or in a newspaper of general circulation.

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

SEC. 13. *Liability for Damages.* - The grantee shall be liable for any injury to persons or damage to property arising from or caused by any accident by reason of any defective construction of any infrastructure built pursuant to the operation of its business under this franchise, or of any neglect or failure to keep its poles and wires in safe condition.

SEC. 14. *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 operation: *Provided*, That priority shall be accorded to the residents

of the place where their principal office is located: *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 Securities and Exchange Commission (SEC) annually.

SEC. 15. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of 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 the controlling interest of the grantee be transferred, simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines. Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of the said transaction. Failure to report to Congress such change of ownership shall render the franchise ipso facto revoked. 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.

SEC. 16. *Dispersal of Ownership.* - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock and list and/or trade in any registered or organized securities market in the Philippines within five (5) years from the commencement of its operations: *Provided*, That in cases where public offer of shares is not applicable, as determined by relevant government agency, other methods of encouraging public participation by citizens must be implemented. Noncompliance therewith shall render the franchise ipso facto revoked.

SEC. 17. *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 operation on or before April 30 of the succeeding year.

The annual report shall include an update on the roll-out, development, operation and/or expansion of business; audited financial statements; latest GIS; certification of the ERC and/or the NEA 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 or the NEA.

SEC. 18. *Equality Clause.* - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereinafter be granted shall, upon prior review and approval of Congress, become part of previously granted power distribution franchises and shall be accorded immediately and unconditionally to the grantees of such franchises: *Provided*, That the foregoing shall neither apply to nor affect the provisions of power distribution franchises concerning territorial coverage, the term, or the type of service authorized by the franchise.

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 (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 and the same shall be remitted to the Bureau of the Treasury.

SEC. 20. *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 Republic Act No. 10531 o "An Act Strengthening the National Electrification Administration, Further Amending Presidential Decree No. 269, as Amended, Otherwise Known as the 'National Electrification Administration Decree'."

SEC. 21. *Transitory Provisions.* - The grantee, in coordination with the National Electrification Administration, and the Lanao del Sur Electric Cooperative, shall form a transition team for the Municipalities of Balo-I, Pantar, Pantao Ragat, and Tagoloan that have been transferred to the franchise area of the grantee. The transition team shall submit to the Energy Regulatory Commission the final cost of unpaid bills of the consumers of the four municipalities.

The Energy Regulatory Commission shall determine and approve the final cost to be added on the electric bill of the four municipalities, notwithstanding the right of the consumers in the four municipalities to challenge the additional charges that may be imposed on their electric bill. In accordance to the Local Government Code, the Provincial Government of Lanao del Norte may represent the consumers of the four municipalities in the ERC.

SEC. 22. *Repeatability 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 either in the Official Gazette or in a newspaper of general circulation.

Approved,