

TWENTIETH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **4743**

EXPLANATORY NOTE

This Bill seeks the renewal of the legislative franchise granted to the **Visayan Electric Company, Inc. (Visayan Electric)** by virtue of Republic Act No. 9339. The renewal is essential for ensuring the continuous and reliable supply of electricity to its franchise area, which includes the cities of Cebu, Mandaue, Talisay, and Naga, as well as the municipalities of Liloan, Consolacion, Minglanilla, and San Fernando. Visayan Electric has been a key driver of economic expansion and improved quality of life for millions of Filipinos in Metro Cebu.

Since the enactment of its current franchise, Visayan Electric has demonstrated a commendable track record:

- **Service and Reliability:** The company has actively worked to reduce power interruptions and has invested in maintaining and modernizing its distribution network, including substations and power lines. It has also improved customer service through various platforms and digital services like eBillTxt and MobileAP. The company has adopted various procurement strategies in order to reduce the overall rates paid by its customers.
- **Infrastructure and Investments:** Visayan Electric has made significant capital investments to expand its infrastructure, accommodating the growing demand for electricity and strengthening grid resilience against natural disasters. It has also adopted new technologies to optimize efficiency and reduce system losses, which has been beneficial to the Cebuanos' economic growth and development.
- **Community and Environment:** The company is a proponent of environmental conservation through its active engagement in the Buhisan Watershed Forest Reserve rehabilitation project. Additionally, its School Rewiring Project has been instrumental in upgrading electrical systems in numerous public schools, making them safer for students and educators. The company has also shown resilience and dedication in restoring power after natural disasters such as the onslaught of Typhoon Odette in 2022.

The continued operation of Visayan Electric under a renewed franchise is a strategic necessity for the sustained growth and welfare of Metro Cebu. Its established record of dependable service, significant investments, commitment to customer satisfaction, and impactful community initiatives underscore its capability as a public utility. This renewal will allow Visayan Electric to further its strategic development plans, enhance grid resilience, and continue its partnership in the socio-economic advancement of the Metro Cebu region.

In view of the foregoing, immediate approval of this measure is earnestly requested.


RUFUS B. RODRIGUEZ


MAXIMO B. RODRIGUEZ, JR.

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AN ACT

RENEWING FOR TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO VISAYAN ELECTRIC COMPANY INC. UNDER REPUBLIC ACT NO. 9339, FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITIES OF CEBU, MANDAUE, TALISAY, AND NAGA, AND THE MUNICIPALITIES OF MINGLANILLA, SAN FERNANDO, CONSOLACION, AND LILOAN, PROVINCE OF CEBU"

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, the franchise granted to Visayan Electric Company Inc. ("Visayan Electric"), hereunder referred to as the Grantee, its successors or assignees, under Republic Act No. 9339 to construct operate 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 Cebu, Mandaue, Talisay, and Naga, and the municipalities of Minglanilla, San Fernando, Consolacion, and Liloan, province of Cebu, is hereby renewed.

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 Operation of Facilities.* — All electric distribution facilities, lines, and systems for electric services owned, constructed, operated, and 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 any other government agency concerned, to modify, improve, and change the facilities or systems in such a 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 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 the payment of 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 any dispute or disagreement between the parties concerned.

SECTION 3. *Authority of the Energy Regulatory Commission.* — The Grantee shall secure from the ERC or any other government agency having jurisdiction over the operation of the herein Grantee, the necessary certificate of public convenience and necessity and other appropriate permits and licenses for the construction and operation of its electric distribution system.

SECTION 4. *Excavation and Renovation Works.* — For the purpose of erecting and maintaining poles and other supports for the wires or other conductors, or for the purpose 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, highways, roads, streets, lines, alleys, avenues, sidewalks, or bridges of the said province and cities and/or municipalities, subject to prior approval of the Department of Public Works and Highways ("DPWH") or the local government unit ("LGU") concerned: *Provided, however,* That a public place, highway, road, 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 and/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 relevant LGU concerned.

SECTION 5. *Responsibility to the Public.* — The Grantee shall supply electricity to its captive market in urban and rural portions of its franchise area. 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 reasonable electricity costs. The Grantee shall only charge reasonable and just power rates for its services to all types of consumers within its franchise area. The Grantee shall not be liable for any taxes, refunds, fees, amounts, or penalties that are not assessed or imposed in a timely manner. All new taxes and statutory fees, surcharges, or penalties shall apply prospectively.

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 No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001", as amended. The Grantee shall not engage in any activity that will constitute an abuse of market position or anti-competitive behavior as defined under Republic Act No. 10667 or the "Philippine Competition Act" such as but not limited to, unfair trade practices, monopolistic schemes, and other activities that will hinder competitiveness of businesses and industries.

SECTION 6. *Rates for Services.* — The retail rates to its captive market and charges for the distribution of electric power by the Grantee to its end-user 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, as amended. Such rates charged by the Grantee to the end-users shall be made public and transparent. The Grantee shall likewise implement Republic Act No. 10150, Republic Act No. 9994, and other relevant statutes as long as they are in effect.

SECTION 7. *Promotion of Consumer Interests.* — The herein Grantee shall establish a platform to handle consumer concerns and complaints and ensure adequate promotion of consumer interests in accordance with applicable rules and regulations of the ERC, its successor, and other relevant regulatory agencies. The Grantee shall act with dispatch on and resolve all complaints brought before it within such period as may be determined 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 distribution system of the Grantee; 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/department of the government upon the payment of due compensation to the Grantee, its successors, or assignees, for the use of the said distribution system during the period when this shall be operated.

SECTION 9. *Tax Provisions.* — In consideration of the franchise and rights hereby granted, the Grantee, its successors or assigns, shall pay a franchise tax equivalent to three percent (3%) of all gross distribution income derived by the Grantee from its operation under this franchise. Said tax shall be in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted: Provided, That the Grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay: Provided, further, That the Grantee shall not be liable for any taxes, fees, amounts, surcharges, or penalties that are not assessed or imposed in a timely manner. All new taxes and statutory fees, surcharges, or penalties shall apply prospectively.

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 services. The Grantee is authorized to install and maintain its poles, wires, and other facilities over, under, 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 necessary for the realization of the purposes of this franchise: *Provided*, That proper expropriation proceedings shall have been instituted and just compensation paid.

SECTION 11. *Term of Franchise.* — This franchise shall be for a term of twenty-five (25) years from the expiration of the current franchise granted under Republic Act No. 9339. 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 National and Local Governments.* — The Grantee shall hold the national, provincial, city, and municipal governments of the Philippines harmless from all claims, liabilities, demands, or actions arising from accidents that cause injury to persons and/or damage to property 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/or damage to property arising from accidents by reason of any defective construction under this franchise or any neglect or omission to keep its poles and wires in a safe condition.

SECTION 14. *Sale, Lease, Transfer, Usufruct, etc.* — The grantee shall not lease, transfer, grant the usufruct of or sell 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 the controlling interest of the grantee be transferred whether in whole or in part, and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. 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 of its finances and operations 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 after the effectivity of this Act.

SECTION 16. *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 non-compliance. 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 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 territorial coverage, the term, or the type of service authorized by the franchise: *Provided, further,* That should the Grantee increase its territorial coverage through sale, lease, transfer, grant of usufruct, or assignment of legislative franchises with prior congressional approval, it shall also become part of this franchise and be accorded immediately and unconditionally to the herein Grantee.

SECTION 18. *Applicability Clause.* — The Grantee shall comply with and be subject to the provisions of the Commonwealth Act. No. 146, or the “Public Service Act”, as amended; Republic Act No. 9136, as amended; Republic Act No. 9513, or the “Renewable Energy Act of 2008”; Republic Act No. 11361, or the “Anti-Obstruction of Power Lines Act”; and other applicable laws.

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 common good 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, decrees, orders, resolutions, instructions, and rules and regulations or parts thereof, which are inconsistent herewith, are hereby deemed repealed or modified accordingly.

SECTION 22. *Effectivity.* — This Act shall take effect immediately from the date of its publication in the *Official Gazette* or in any newspaper of general circulation in the Philippines.

Approved,