

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS

First Regular Session

House Bill No. **5007**



Introduced by:

Representative Stephen James T. Tan
Representative Reynolds Michael T. Tan

AN ACT GRANTING THE SAMAR I ELECTRIC COOPERATIVE INC. (SAMELCO I) A FRANCHISE 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 CALBAYOG AND THE MUNICIPALITIES OF STA. MARGARITA, GANDARA, SAN JORGE, MATUGUINAO, TARANGNAN, PAGSANGHAN, STO. NIÑO, ALMAGRO & TAGAPUL-AN

The **Samar I Electric Cooperative, Inc. (SAMELCO I)** was organized and registered pursuant to Presidential Decree No. 269, as amended, under the supervisory authority of the National Electrification Administration (NEA), with a mandate to provide electrification in the Second District of the Province of Samar on an area coverage basis. Pursuant to Section 27 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA), the power to grant franchises is vested exclusively in the Congress of the Philippines.


Thus, this bill seeks to grant a congressional franchise to SAMELCO I to operate an electric power distribution system serving the **CITY OF CALBAYOG AND THE MUNICIPALITIES OF STA. MARGARITA, GANDARA, SAN JORGE, MATUGUINAO, TARANGNAN, PAGSANGHAN, STO. NIÑO, ALMAGRO & TAGAPUL-AN**. Furthermore, it aims to establish standards that the Grantee must meet to ensure an effective partnership between the State and the Grantee, as well as to uphold high standards for the facilities provided.

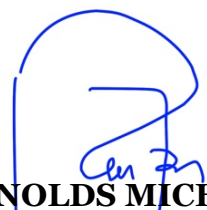
SAMELCO I has demonstrated exceptional performance since being granted a franchise to operate electric light and power services in the City of Calbayog and the

municipalities of Sta. Margarita, Gandara, San Jorge, Matuguinao, Tarangnan, Pagsanghan, Sto. Niño, Almagro, and Tagapul-an. SAMELCO I has achieved 100% energization of all barangays within its franchise area. Notably, SAMELCO I has been consistently categorized as an "AAA" cooperative, the highest rating awarded by the supervising government agency, the NEA, for several years.

The enactment of this bill will ensure the continuous delivery of electric services by SAMELCO I to the aforementioned city and municipalities, paving the way for progress in the First District of the Province of Samar. This aligns with the State's policy, as provided in EPIRA, to ensure and accelerate the total electrification of the country while promoting the quality, reliability, security, and affordability of the electric power supply.

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


REP. STEPHEN JAMES T. TAN
Representative, First District, Samar.


REP. REYNOLDS MICHAEL T. TAN
Representative, Second District, Samar

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

SECTION 1. *Nature and Scope of Franchise.* – Subject to the Constitution and applicable laws, rules, and regulations Samar I Electric Cooperative, Inc. (SAMELCO I), hereinafter referred to as the “*Grantee*”, its successors or assignees, is granted a franchise to construct, 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 Calbayog and the Municipalities of Sta. Margarita, Gandara, San Jorge, Matuguinao, Tarangnan, Pagsanghan, Sto. Niño, Almagro, and Tagapul-an, Province of Samar.

As used in this Act and as defined under Republic Act no. 9136, *distribution system* refers to the system of wires and associated facilities belonging to a franchised distribution utility extending between the delivery points on the transmission or subtransmission system or generator connection and the point of connection to the premises of the end-user.

SECTION 2. *Manner of Operations of Facilities.* - All electric distribution facilities, lines and systems for electric services installed, owned, maintain, operated,

managed or maintained by the Grantee, its successors or assignees shall be operated or 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 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 in case of dispute or disagreement between the parties.

SECTION 3. *Authority of the Energy Regulatory Commission (ERC) and National Electrification Administration (NEA).* – The Grantee shall secure from the ERC or the NEA or 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.

The ERC or NEA or any government agency having jurisdiction over the operations, may allow Grantee to expand to surrounding areas, which are not covered by the franchise granted, whenever public interest so requires.

SECTION 4. *Excavation and Restoration Works.* – For the purpose of erecting and maintaining poles or other supports for said facilities, wires, or other conductors or for the purposes of laying and maintaining said facilities, wires, cables or other conductors, it shall be lawful for the Grantee, its successors or assignees, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, highways, roads, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, or municipalities: *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 or replaced in a workmanlike manner by the Grantee, its successors or assignees, in accordance with the standards set by the DPWH or the local government unit concerned. Should the Grantee, its successors or assignees, after the ten (10)-day notice from the grant of authority, fail, refuse, or neglect to repair or replace any part of a public place, highway, road, street, lane, alley, avenue, sidewalk, or bridge altered, changed, or disturbed by the said Grantee, its successors or assignees, then the DPWH or the local government unit 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, 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 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 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. *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 promptly on all such complaints brought before it.

SECTION 7. *Rates of 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 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 8. *Right of the Government.* – A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, calamity, or disaster to temporarily take over and operate the stations or facilities of the Grantee.

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 necessary for the efficient maintenance and operation of its 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 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 10. *Term of Franchise.* – This franchise shall be in effect for a period of twenty-five (25) years commencing from the expiration of the existing franchise of the Grantee.

SECTION 11. *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 and damage to property, during the construction, installation, operation, and maintenance of the distribution system of the Grantee.

SECTION 12. *Liability for Damages.* The Grantee shall be liable for any injury to persons and damage to property 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 13. *Sale, Lease, 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 Congress shall be informed of any lease, 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 14. *Reportorial Requirement.* - The Grantee shall submit an annual report to the Congress, 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 15. *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 16. *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 sale, lease, transfer, grant of usufruct, or assignment of legislative franchises with prior congressional approval.

SECTION 17. ***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 18. ***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.

SECTION 19. ***Existing Powers.*** – Existing mandates, powers, functions, and privileges granted to electric cooperatives under existing laws, including Section 10 of Republic Act No. 10531, otherwise known as “National Electrification Administration Reform Act of 2013”, shall remain valid and effective, unless expressly repealed.

SECTION 20. ***Income Tax and Minimum Corporate Income Tax (MCIT).*** – The Grantee shall be permanently exempt from the payment of income tax and Minimum Corporate Income Tax or MCIT.

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, 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.