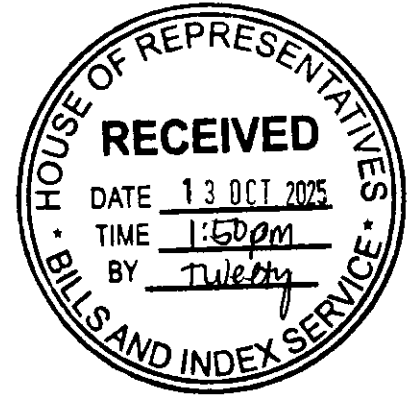




Republic of the Philippines
House of Representatives
Quezon City



TWENTIETH CONGRESS

First Regular Session

House Bill No. 5512

Introduced by

Jane T. Castro, Capiz 2nd District Representative
Presley C. De Jesus, PhilRECA Party-List Representative
Sergio C. Dagoo, APEC Party-List Representative

EXPLANATORY NOTE

This bill seeks to grant a congressional franchise to Capiz Electric Cooperative, Inc. (CAPELCO) to provide an electric power distribution system to the people of Roxas City, Cuartero, Dao, Dumarao, Dumalag, Ivisan, Jamindan, Maayon, Mambusao, Panay, Panitan, Pilar, Pontevedra, President Roxas, Sapián, Sigma, and Tapaz, all in the Province of Capiz. Furthermore, it lays down the standards and conditions that the franchise grantee must attain and fulfill in order to implement an effective partnership between the government and the distribution utility as its implementing partner for total electrification.

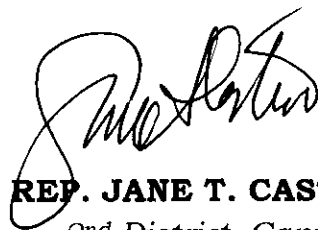
CAPELCO has been in operation from 1971 up to the present as a service-oriented, non-stock and non-profit cooperative. On February 6, 1978 the National Electrification Administration (NEA) issued the cooperative a franchise to, granting it a 50-year franchise to operate. Said franchise is set to expire on 2028.

As the sole franchise holder for electric distribution in its coverage area, CAPECLO has been providing invaluable service to the sixteen (16) municipalities and one (1) city of the province, serving a total of 475 barangays with approximately 180,093 service connections. Over the years, the cooperative has demonstrated its technical, financial, and institutional capability to carry out its mandate, evidenced by its efforts in reducing system

loss, minimizing power outages, and maintaining high collection efficiency. More importantly, CAPELCO has been an effective partner to the NEA in its implementation of the Sitio Electrification Program.

Granting this franchise will ensure the continuous supply of electricity to the people of the Capiz. It will also allow CAPELCO to sustain its mission of playing a vital role in the socio-economic development of its franchise area. by providing an affordable, dependable, efficient and reliable electric service to its member-consumer-owners.

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



REP. JANE T. CASTRO
2nd District, Capiz



REP. PRESLEY C. DE JESUS
PhilRECA Party-List



REP. SERGIO C. DAGOOC
APEC Party-List



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AN ACT

GRANTING THE CAPIZ ELECTRIC COOPERATIVE, INC. (CAPELCO) 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 ROXAS AND MUNICIPALITIES OF CUARTERO, DAO, DUMARAO, DUMALAG, IVISAN, JAMINDAN, MAAYON, MAMBUSAO, PANAY, PANITAN, PILAR, PONTEVEDRA, PRESIDENT ROXAS, SAPIAN, SIGMA, AND TAPAZ, ALL IN THE PROVINCE OF CAPIZ

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

- 1 **SECTION 1. *Nature and Scope of Franchise.*** – Subject to the
2 provisions of the Constitution and applicable laws, rules and regulations,
3 there is hereby granted to the Capiz Electric Cooperative, Inc. (CAPELCO)
4 hereunder referred to as the Grantee, its successors or assigns a franchise to
5 construct, install, establish, operate, own, manage and maintain in the public
6 interest and commercial purposes, a distribution system for the conveyance
7 of electric power to the end-users in the City of Roxas and Municipalities of
8 Cuartero, Dao, Dumarao, Dumalag, Ivisan, Jamindan, Maayon, Mambusao,
9 Panay, Panitan, Pilar, Pontevedra, President Roxas, Sapián, Sigma, and
10 Tapaz, all in the Province of Capiz.

1 As used in this Act, distribution system refers to the system of wires
2 and associated facilities including sub-transmission lines belonging to a
3 franchised distribution utility extending between the delivery point on the
4 national transmission system or generating facility and the metering
5 point/facility of the end-users.

6 **SEC. 2. Manner of Operation of Facilities.** – All electric distribution
7 facilities, lines and systems for electric services installed, owned, maintained,
8 operated, managed by the Grantee, its successors or assigns shall be operated
9 or maintained at all times in a superior manner, and it shall be the duty of
10 the Grantee, its successors or assigns, whenever required to do so by the
11 Energy Regulatory Commission (ERC), or its legal successor, or the
12 Department of Energy (DOE), or its legal successor, or any other government
13 agency concerned to modify, improve and change such facilities or systems in
14 such manner and to such extent as the progress in science or technology and
15 improvements or innovations in the electric power services may render
16 reasonable and proper.

17 Whenever practicable, and for purposes of maintaining order, safety
18 and aesthetics along the highways, roads, streets, alleys or right-of-way, the
19 Grantee may allow the use of free spaces in its poles, facilities, or right-of-way
20 by interested parties upon reasonable compensation to the Grantee
21 considering the costs incurred to accommodate and administer the use of the
22 Grantee's facilities by such parties. The ERC shall decide in case of dispute
23 or disagreement between the parties.

24 **SEC. 3. Authority of the ERC and NEA.** – The Grantee shall secure
25 from the ERC or NEA any government agency having jurisdiction over their
26 operations, the Certificate of Public Convenience and Necessity and any other
27 license, permit or authority indispensable for the construction and operation
28 of the electric power distribution system.

29 **SEC. 4. Excavation and Restoration Works.** – For the purpose of
30 erecting and maintaining the poles or other supports for said facilities, wires
31 or other conductors or for the purpose of laying and maintaining said
32 facilities, wires, cables or other conductors, it shall be lawful for the Grantee,
33 its successors, or assignees, in coordination with the Department of Public
34 Works and Highways (DPWH) or the local government unit (LGU) concerned,
35 as may be appropriate, to make excavations or lay conduits in any of the
36 public places, highways, road, streets, lanes, alleys, avenues, sidewalks, or
37 bridges of the province, cities or municipalities: *Provided, however,* That a
38 public place, highway, road, street, lane, alley, avenue, sidewalk, or bridge
39 disturbed, altered, or changed by reason of erection of poles or other supports
40 or the underground laying of wires, other conductors or conduits, shall be

1 repaired and replaced in workmanlike manner by the Grantee, its successors
2 or assignees, in accordance with the standards set by the DPWH or the local
3 government unit concerned. Should the Grantee, its successors or assignees,
4 after the ten (10)-day notice from the grant of authority, fail, refuse or neglect
5 to repair or replace any part of public place, highway, road, street, lane, alley,
6 avenue, sidewalk, or bridge altered, changed or disturbed by the said Grantee,
7 its successors or assignees, then the DPWH or the local government unit
8 concerned shall have the right to have the same repaired and replaced in good
9 order and condition and charge the Grantee, its successors or assignees,
10 double the amount of the cost and expenses for such repair or replacement.

11 **SEC. 5. Responsibility to the Public.** – The Grantee shall supply
12 electricity to its captive market in the least costly manner. In the interest of
13 the public good and as far as feasible and whenever required by the ERC, the
14 Grantee shall modify, improve, or change its facilities, poles, lines, systems
15 and equipment for the purpose of providing efficient and reliable service and
16 reduced electricity costs. The Grantee shall charge reasonable and just power
17 rates for its services to all types of consumers within its franchised area in
18 order that business and industries shall be able to compete.

19 The Grantee shall have the obligation to provide open and
20 nondiscriminatory access to its distribution system and services for any end-
21 user within its franchise area consistent with Republic Act (RA) No. 9136,
22 otherwise known as the “Electric Power Industry Reform Act of 2001”. The
23 Grantee shall not engage in any activity that will constitute an abuse of
24 market power such as unfair trade practices, monopolistic schemes, and
25 other activities that will hinder competitiveness of business and industries.

26 **SEC. 6. Rates for Services.** – The retail rates and charges for the
27 distribution of electric power by the Grantee to its end-users shall be
28 regulated by and subject to the approval of the ERC or its legal successor.

29 The Grantee shall identify and segregate in its electricity bill to the end-
30 users the components of the retail rate pursuant to RA 9136, unless otherwise
31 amended. Such rates charged by the Grantee to the end-users shall be made
32 public and transparent. The Grantee shall implement lifeline rate to
33 marginalized end-users as mandated under RA 9136.

34 **SEC. 7. Promotion of Consumer Interests.** – The Grantee herein shall
35 establish a consumer desk that will handle consumer complaints and ensure
36 adequate promotion of consumer interests. The Grantee shall act with
37 dispatch on all complaints brought before it.

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

8 **SEC. 9. Right of the Government.** – A special right is hereby reserved
9 to the President of the Philippines, in times of war, rebellion, public peril,
10 calamity, emergency, disaster or disturbance of peace and order: to
11 temporarily take over and operate the stations or facilities of the Grantee; to
12 temporarily suspend the operation of any station or facility in the interest of
13 public safety, security, and public welfare; or to authorize the temporary use
14 and operation thereof by any agency of the government, upon due
15 compensation to the Grantee, for the use of the stations or facilities during
16 the period when these shall be so operated.

17 **SEC. 10. Right of Eminent Domain.** – Subject to the limitations and
18 procedures prescribed by law, the Grantee is authorized to exercise the right
19 of eminent domain insofar as it may be reasonably necessary for the efficient
20 maintenance and operation of services. The Grantee is authorized to install
21 and maintain its poles, wires, and other facilities over and across public
22 property, including streets, highways, forest reserves, and other similar
23 property of the Government of the Philippines, its branches, or any of its
24 instrumentalities. The Grantee may acquire such private property as is
25 actually necessary for the realization of the purposes for which this franchise
26 is granted: *Provided*, That proper expropriation proceedings shall have been
27 instituted and just compensation paid.

28 **SEC. 11. Term of Franchise.** – Unless sooner cancelled, the franchise
29 shall be in effect for a period of twenty-five (25) years from the date of
30 effectivity of this Act. This franchise shall be deemed *ipso facto* revoked in the
31 event the Grantee fails to operate continuously for two (2) years.

32 **SEC. 12. Warranty in Favor of the National and Local**
33 **Governments.** – The Grantee shall hold the national, provincial, city, and
34 municipal governments of the Philippines free from all claims, accounts,
35 demands, or actions arising from accidents causing injury to persons or
36 damage to properties, during the construction, installation, operation, and
37 maintenance of the distribution system of the Grantee.

38 **SEC. 13. Liability for Damages.** – The Grantee shall be liable for any
39 injury to persons and damage to properties arising from accidents by reason

1 of any defective construction under this franchise or of any neglect or
2 omission to keep its poles and wires in safe condition.

3 **SEC. 14. Sale, Lease, Transfer, Usufruct, or Assignment of**
4 **Franchise.** – The Grantee shall not sell, lease, transfer, grant the usufruct,
5 or assign this franchise or the rights and privileges acquired thereunder to
6 any person, firm, company, corporation, or other commercial or legal entity,
7 or merge with any other corporation, or entity, or shall transfer the controlling
8 interest of the Grantee, whether as a whole or in parts, and whether
9 simultaneously or contemporaneously, to any such person, firm, company,
10 corporation, or entity without the prior approval of the Congress: *Provided,*
11 That Congress shall be informed of any sale, lease, transfer, grant of usufruct,
12 sale, or assignment of franchise or the rights and privileges acquired
13 thereunder, or of the merger, or sale of the controlling interest within sixty
14 (60) days after the completion of said transaction: *Provided, further,* That any
15 such transfer, sale, or assignment is in accordance with the constitutional
16 limitations: *Provided, furthermore,* That failure to report to Congress such
17 change of ownership shall render the franchise *ipso facto* revoked: *Provided,*
18 *finally,* That any person or entity to which this franchise is sold, transferred,
19 or assigned, shall be subject to the same conditions, terms, restrictions, and
20 limitations of this Act.

21 **SEC. 15. Reportorial Requirement.** – The Grantee shall submit an
22 annual report to Congress, through the Committee on Legislative Franchises
23 of the House of Representatives and the Committee on Public Services of the
24 Senate, on its compliance with the terms and conditions of the franchise and
25 on its operations on or before April 30 of every year during the term of the
26 franchise. The reportorial compliance certificate issued by Congress shall be
27 required before any application for permit or certificate is accepted by the
28 ERC.

29 **SEC. 16. Fine.** – The failure of the Grantee to submit the requisite
30 annual report to Congress shall be penalized by a fine in the amount of Five
31 hundred pesos (P500.00) per working day of noncompliance which shall be
32 collected by the ERC. The fine shall be collected separately from the
33 reportorial penalties imposed by the ERC and shall be remitted to the Bureau
34 of Treasury.

35 **SEC. 17. Equality Clause.** – Any advantage, favor, privilege,
36 exemption, or immunity granted under existing franchises, or which may
37 hereafter be granted, upon prior review and approval of Congress, shall
38 become part of this franchise and shall be accorded immediately and
39 unconditionally to the herein Grantee: *Provided, however,* That the foregoing
40 shall neither apply to nor affect provisions concerning territory covered by the

1 franchise, the life span of the franchise or the type of service authorized by
2 the franchise: *Provided, further*, That the foregoing shall not apply to the sale,
3 lease, transfer, grant of usufruct, or assignment of legislative franchises with
4 prior congressional approval.

5 **SEC. 18. Applicability of Existing Laws.** – The Grantee shall comply
6 with and be subject to the provisions of Commonwealth Act No. 146 or the
7 “Public Service Act”, as amended, RA 9136, and RA 10531 or the “National
8 Electrification Administration Reform Act of 2013.”

9 **SEC. 19. Existing Powers.** – Existing mandates, powers, functions,
10 and privileges granted to electric cooperatives under existing laws, including
11 Section 10 of RA 10531 shall remain valid and effective, unless expressly
12 repealed by succeeding laws.

13 **SEC. 20. Repealability and Non-Exclusivity Clause.** – This franchise
14 shall be subject to amendment, alteration, or repeal by Congress when the
15 public interest so requires and shall not be interpreted as an exclusive grant
16 of the privileges herein provided for.

17 **SEC. 21. Separability Clause.** – If any of the sections or provisions of
18 this Act is held invalid, all other provisions not affected thereby shall remain
19 valid.

20 **SEC. 22. Repealing Clause.** – All laws, presidential decrees, executive
21 orders, letters of instruction, administrative rules and regulations or parts
22 thereof which is are contrary to or inconsistent with the provisions of this Act
23 are hereby repealed or modified accordingly.

24 **SEC. 23. Effectivity Clause.** – This Act shall take effect upon the
25 expiration of the Grantee’s franchise or fifteen (15) days after its publication
26 in the *Official Gazette* or in a newspaper of general circulation, whichever
27 comes later.

28 *Approved,*