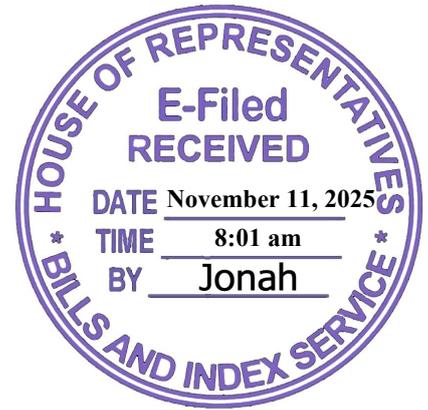




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session



HOUSE BILL NO. 5793

Introduced by Representative Howard A. Guintu

EXPLANATORY NOTE

Republic Act No. 9136, otherwise known as the “*Electric Power Industry Reform Act (EPIRA) of 2001*,” declares it the policy of the State to ensure and accelerate the total electrification of the country, with particular emphasis on providing reliable, secure, and affordable electric power supply to all areas, especially the rural communities.

The Capiz Electric Cooperative, Inc. (CAPELCO) was established on June 7, 1971, and was granted a 50-year franchise to operate by the National Electrification Administration (NEA) in 1978. As of April 2021, electric connectivity in the Province of Capiz stands at an impressive 101.22%, equivalent to 187,771 active connections—efficiently providing electricity to approximately 853,098 residents across the province.

Over the past decade, CAPELCO has consistently maintained an “AAA” rating as a mega-large electric cooperative—the highest recognition conferred by the NEA for exemplary operational performance, sound financial management, and full compliance with reportorial and regulatory requirements.

This proposed measure seeks to grant CAPELCO a franchise for another twenty-five (25) years to ensure the uninterrupted delivery of quality electric service to its Member-Consumer-Owners. This is aligned with the objectives of the EPIRA Law, which seeks to promote total electrification and enhance the delivery of power services nationwide.

In view of CAPELCO’s remarkable track record and its indispensable role in driving the socio-economic progress of Capiz through reliable power distribution, the passage of this bill is earnestly sought.


HOWARD A. GUINTU
Representative, First District of Capiz



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AN ACT

GRANTING THE CAPIZ ELECTRIC COOPERATIVE, INC. (CAPELCO) A FRANCHISE TO CONSTRUCT, OPERATE, OWN, MANAGE, AND MAINTAIN A DISTRIBUTION SYSTEM 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, IN THE PROVINCE OF CAPIZ

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

SECTION 1. *Short Title.* – This Act shall be known as the “***CAPELCO Franchise Act.***”

SEC 2. *Nature and Scope of Franchise.* – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to Capiz Electric Cooperative, Inc. (CAPELCO), hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate and maintain for commercial purposes and public interest, a power distribution system for the conveyance of electric power to the end users in the Province of Capiz, namely: the City of Roxas and the municipalities of Cuartero, Dao, Dumarao, Dumalag, Ivisan, Jamindan, Maayon, Mambusao, Panay, Panitan, Pilar, Pontevedra, President Roxas, Sapián, Sigma, and Tapaz.

As used in this Act, Distribution system refers to the system of wires and associated facilities including sub-transmission lines belonging to 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.

SEC 3. *Manner of Operation of Facilities.* – All electric distribution facilities, lines and system 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 Electric Administration (NEA) or its legal successor, or any authorized government agency, to modify, improve and change such facilities or system 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 aesthetic along highway, roads, streets, alleys or easement, the grantee may allow the use of its poles, facilities, or easements by interested parties upon reasonable compensation. The ERC or NEA shall resolve cases of dispute or disagreement between parties.

SEC 4. *Authority of the Energy Regulatory Commission (ERC) and the National Electrification Administration (NEA).* – The grantee shall secure from ERC or 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 5. *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 the said provinces, cities, and/or municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or the Local Government Unit (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

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 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 the 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 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 cost and expenses for such repair or replacement.

SEC 6. *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 the franchised areas.

The grantee shall have the obligation to provide open and non-discriminatory access to its distribution system and services to 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 scheme, and any other activities that will hinder competitiveness of business and industries.

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

SEC 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 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 8. *Protection of Consumer Interest.* – 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 9. *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 they shall be so operated.

SEC 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 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 11. *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 12. *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 a newspaper of general circulation.

SEC 13. *Warranty in Favor of National and Local Government.* – The grantee shall hold the national, provincial, city, and municipal government 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 14. *Liability to 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 15. *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 16. *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 such 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 rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after 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 17. *Reportorial Requirements.* – The grantee shall submit an annual report to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of the Representatives and the Committee of the Public Services of the Philippine Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of the succeeding year.

SEC 18. *Equality Clause.* – Except for taxes and customs duties, 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*, however, that the foregoing shall neither apply to nor affect provisions concerning territory covered, term, or 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 franchise with prior congressional approval.

SEC 19. *Applicability of Existing Laws.* – The grantee shall comply with the 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 or the “National Electrification Administration Reform Act of 2013”.

SEC 20. *Fine.* – Any grantee who fails to submit the annual report to Congress shall be penalized by a fine of Five Hundred Pesos (Php 500.00) per working day of non-compliance.

The fine shall be collected separately by the ERC distinct from the penalties it imposes for non-compliance of its own reportorial requirements.

SEC 21. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SEC 22. *Separability Clause.* – If any provision is held invalid or unconstitutional, the remainder of the law or provision not otherwise affected shall remain valid and subsisting.

SEC 23. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,