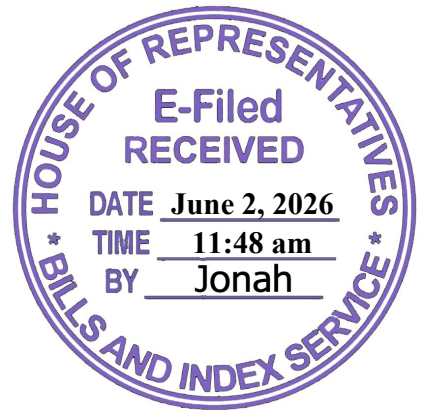


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
TWENTIETH CONGRESS

First Regular Session
HOUSE BILL NO. **9643**



Introduced by Hon. Jose Manuel F. Alba

EXPLANATORY NOTE

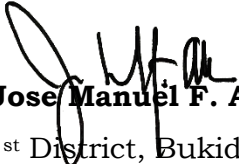
Access to reliable, affordable, and sustainable electricity is indispensable to economic growth, social development, and the improvement of the quality of life of Filipinos. Electric cooperatives play a critical role in advancing rural electrification and ensuring that communities, including those in geographically isolated and disadvantaged areas, have access to dependable electric power services.

The Bukidnon II Electric Cooperative, Inc. (BUSECO) has been at the forefront of providing electric distribution services to a substantial portion of the Province of Bukidnon. BUSECO's franchise area presently covers the municipalities of *Manolo Fortich, Libona, Sumilao, Malitbog, Baungon, Impasug-ong, Talakag, Lantapan, and Cabanglasan*, as well as *Malaybalay City*. Through the years, BUSECO has significantly contributed to the province's socio-economic development by energizing households, educational institutions, health facilities, agricultural enterprises, commercial establishments, and industries.

This proposed measure grants BUSECO a franchise for a period of twenty-five (25) years to construct, install, establish, operate, own, manage, and maintain distribution systems for the conveyance of electric power to end-users within its service area. It likewise ensures that the cooperative remains subject to the regulatory oversight of the Energy Regulatory Commission (ERC), the National Electrification Administration (NEA), and other relevant government agencies. The bill further mandates compliance with applicable laws and regulations, promotes consumer welfare, encourages employment generation, and safeguards the interests of the government and the public.

The enactment of this measure will help ensure the uninterrupted delivery of electric power services to the people of Bukidnon, strengthen rural development, attract investments, generate employment opportunities, and contribute to the continued economic progress of the province and the nation.

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



Jose Manuel F. Alba
1st District, Bukidnon

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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First Regular Session
HOUSE BILL NO. **9643**

Introduced by Hon. Jose Manuel F. Alba

AN ACT

GRANTING THE BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO) 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 MUNICIPALITIES OF MANOLO FORTICH, LIBONA, SUMILAO, MALITBOG, BAUNGON, IMPASUG-ONG, MALAYBALAY, TALAKAG, LANTAPAN, AND CABANGLASAN IN THE PROVINCE OF BUKIDNON

Be it enacted by the Senate and the 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 Bukidnon II Electric Cooperative, Inc. (BUSECO) hereunder referred to as the Grantee, its successors or assigns a franchise to construct, install, establish, operate, own, manage and maintain in the public interest and commercial purposes, a distribution system for the conveyance of electric power to the end-users in the municipalities of Manolo Fortich, Libona, Sumilao, Malitbog, Baungon, Impasug-ong, Malaybalay, Talakag, Lantapan, and Cabanglasan, all within the Province of Bukidnon,.

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 or facility of the end-users.

SECTION 2. *Manner of Operation of Facilities.* – All electric distribution facilities, lines and systems for electric services installed, owned, maintained, operated, managed by the Grantee, its successors or assigns shall be operated or maintained at all times in a superior manner, and it shall be the duty of the Grantee, its successors or assigns, 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 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 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 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 ERC and NEA.* – The Grantee shall secure from the ERC or NEA any government agency having jurisdiction over their operations, the Certificate of Public Convenience and Necessity and any other license, permit or authority indispensable for the construction and operation of the electric power distribution system.

SECTION 4. *Excavation and Restoration Works.* – For the purpose of erecting and maintaining the poles or other supports for said facilities, wires or other conductors or for the purpose of laying and maintaining said facilities, wires, cables or other conductors, it shall be lawful for the Grantee, its successors, or assignees, in coordination with the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, highways, road, 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 erection of poles or other supports or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in 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 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 and replaced in good order and condition and charge the Grantee, its successors or assignees, double the amount of the cost and expenses for such repair or replacement.

SECTION 5. *Responsibility to the Public.* – The Grantee shall supply electricity to its captive market 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 area in order that business and industries shall be able to compete.

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 (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 business and industries.

SECTION 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 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 R.A. 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 lifeline rate to marginalized end-users as mandated under R.A. No. 9136.

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

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

SECTION 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 stations or facilities 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 the stations or facilities during the period when these shall be so operated.

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 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 expropriation proceedings shall have been instituted and just compensation paid.

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

SECTION 12. 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 or damage to properties, 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 damage to properties 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 14. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* – The Grantee shall not sell, lease, transfer, grant the usufruct, 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 shall transfer the controlling interest of the Grantee, whether as a whole or in parts, and whether simultaneously or contemporaneously, to any such person, firm, company, corporation, or entity without the prior approval of the Congress: *Provided*, That Congress shall be informed of any sale, lease, transfer, grant of usufruct, sale, or assignment of 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 15. *Reportorial Requirement.* – The Grantee shall submit an annual report to Congress, 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 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 16. *Fine.* – The failure of the Grantee to submit the requisite annual report to Congress shall be penalized by a fine in the amount of Five hundred pesos (P500.00) per working day of noncompliance 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 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 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 the sale, lease, transfer, grant of usufruct, or assignment of legislative franchises with prior congressional approval.

SECTION 18. *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, R.A. No. 9136, and R.A. No. 10531 or the "National Electrification Administration Reform Act of 2013."

SECTION 19. *Existing Powers.* – Existing mandates, powers, functions, and privileges granted to electric cooperatives under existing laws, including Section 10 of R.A. No. 10531 shall remain valid and effective, unless expressly repealed by succeeding laws.

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

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, letters of instruction, 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 Clause.* – This Act shall take effect upon the expiration of the electric cooperative's franchise or fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation, whichever comes later.

Approved,