



HOUSE OF REPRESENTATIVES

H. No. 4746

BY REPRESENTATIVES YAP (J.G.), AUMENTADO, TUTOR, DE JESUS, DAGOOC, MADRONA, MARAÑON,
ALMARIO (C.M.), REGENCIA, ACOSTA, LAGDAMEO (J.M.), BELTRAN, LEGACION, OAMINAL (S.F.),
ROMAN, ONGCHUAN, CAGAS AND FERRER (J.)

AN ACT

**GRANTING BOHOL LIGHT COMPANY, INC. A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE, OWN, MANAGE AND
MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF
ELECTRIC POWER TO THE END-USERS IN THE CITY OF
TAGBILARAN, PROVINCE OF BOHOL, AND ENSURING THE
CONTINUOUS AND UNINTERRUPTED SUPPLY OF ELECTRICITY IN
THE FRANCHISE AREA**

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

1 SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the
2 Constitution and applicable laws, rules and regulations, there is hereby granted to
3 Bohol Light Company, Inc., hereunder referred to as the Grantee, its successors or
4 assignees, a franchise to construct, install, establish, operate, own, manage and
5 maintain in the public interest and for commercial purposes, a distribution system
6 for the conveyance of electric power to end-users in the City of Tagbilaran, Province
7 of Bohol.

8
9 As used in this Act, “distribution system” refers to the system of wires and
10 associated facilities including subtransmission lines belonging to or used by a
11 franchised distribution utility extending between the delivery point on the national
12 transmission system or generating facility and the metering point or facility of the
13 end-user.

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

11
12 Whenever practicable, and for purposes of maintaining order, safety and
13 aesthetics along the highways, roads, streets, alleys or rights-of-way, the Grantee
14 may allow the use of free spaces in its poles, facilities, or rights-of-way by interested
15 parties upon payment of reasonable compensation to the Grantee, considering the
16 costs incurred to accommodate and administer the use of the Grantee's facilities by
17 such parties. The ERC shall decide in case of dispute or disagreement between
18 the parties.

19
20 SEC. 3. *Authority of the Energy Regulatory Commission and Other Government*
21 *Agencies.* – The Grantee shall secure from the ERC or any other government agency
22 having jurisdiction over its operations, the Certificate of Public Convenience and
23 Necessity (CPCN) and any other license, permit, or authority indispensable for the
24 construction and operation of the electric power distribution system.

25 SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and
26 maintaining the poles or other supports for said facilities, wires, or other conductors
27 or for the purpose of laying and maintaining said facilities, wires, cables or other
28 conductors, it shall be lawful for the Grantee, its successors or assignees, with the
29 prior approval of the Department of Public Works and Highways (DPWH) or the
30 local government unit concerned, as may be appropriate, to make excavations or lay
31 conduits in any of the public places, highways, roads, streets, lanes, alleys, avenues,
32 sidewalks, or bridges of the province, cities, or municipalities: *Provided, however,*
33 *That a public place, highway, road, street, lane, alley, avenue, sidewalk, or bridge*
34 *disturbed, altered, or changed by reason of erection of poles or other supports or the*
35 *underground laying of wires, other conductors, or conduits shall be repaired and*
36 *replaced in workmanlike manner by the Grantee, its successors or assignees, in*
37 *accordance with the standards set by the DPWH or the local government unit*
38 *concerned. Should the Grantee, its successors or assignees, after the ten (10)-day*

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

8
9 SEC. 5. *Responsibility to the Public.* – The Grantee shall supply electricity to
10 its captive market in the least costly manner. In the interest of the public good and
11 as far as feasible and whenever required by the ERC, the Grantee shall modify,
12 improve, or change its facilities, poles, lines, systems and equipment for the purpose
13 of providing efficient and reliable service and reduced electricity costs. The Grantee
14 shall charge reasonable and just power rates for its services to all types of
15 consumers within its franchise areas in order that businesses and industries shall
16 be able to compete.

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

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

27
28 The Grantee shall identify and segregate in its electricity bill to the end-users
29 the components of the retail rate pursuant to RA No. 9136, unless otherwise
30 amended. Such rates charged by the Grantee to the end-users shall be made public
31 and transparent. The Grantee shall implement a lifeline rate to marginalized
32 end-users, as mandated by RA No. 9136.

33
34 The Grantee shall strictly comply with the systems loss cap prescribed by
35 the ERC.

1 SEC. 7. *Promotion of Consumer Interests.* – The Grantee shall establish a
2 consumer desk that will handle complaints and ensure adequate protection of
3 consumer interests. The Grantee shall act with dispatch on all such complaints
4 brought before it.

5
6 The Grantee shall reduce the duration and frequency of interruptions in its
7 network and in that regard shall observe the System Average Interruption
8 Frequency Index (SAIFI) and System Average Interruption Duration Index (SAIDI)
9 imposed by the ERC.

10
11 SEC. 8. *Election of Independent Directors.* – The Board of the Grantee shall
12 have independent directors constituting at least twenty percent (20%) of its total
13 membership. These directors must be elected by a majority of the outstanding
14 shares entitled to vote.

15
16 An independent director is a person who, apart from shareholdings and fees
17 received from the corporation, is independent of management and free from any
18 business or other relationship which could, or could reasonably be perceived to
19 materially interfere with the exercise of independent judgment in carrying out the
20 responsibilities as a director.

21
22 SEC. 9. *Commitment to Provide and Promote the Creation of Employment*
23 *Opportunities.* – The Grantee shall create employment opportunities and allow
24 on-the-job training in their franchise operation: *Provided*, That priority shall be
25 accorded to the residents in their franchise area: *Provided, further*, That the
26 Grantee shall comply with the applicable labor standards and allowance
27 entitlement under existing labor laws, rules and regulations, and similar issuances.

28
29 SEC. 10. *Right of the Government.* – A special right is hereby reserved to the
30 President of the Philippines, in times of war, rebellion, public peril, calamity,
31 emergency, disaster, or disturbance of peace and order: to temporarily take over and
32 operate the distribution system of the Grantee; to temporarily suspend the
33 operation of any station or facility in the interest of public safety, security and
34 public welfare; or to authorize the temporary use and operation thereof by any
35 agency of the government, upon due compensation to the Grantee, for the use of the
36 stations or facilities during the period when these shall be so operated.

1 SEC. 11. *Right of Eminent Domain.* – Subject to the limitations and procedures
2 prescribed by law, the Grantee is authorized to exercise the right of eminent domain
3 insofar as it may be reasonably necessary for the efficient maintenance and
4 operation of services. The Grantee is authorized to install and maintain its poles,
5 wires, and other facilities over, under, and across public property, including streets,
6 highways, parks, and other similar property of the Government of the Philippines,
7 its branches, or any of its instrumentalities. The Grantee may acquire such private
8 property as is actually necessary for the realization of the purposes for which this
9 franchise is granted: *Provided*, That proper expropriation proceedings shall have
10 been instituted and just compensation paid.

11
12 SEC. 12. *Term of the Franchise.* – This franchise shall be for a term of
13 twenty-five (25) years upon effectivity, unless sooner cancelled. This franchise
14 shall be deemed *ipso facto* revoked in the event that the Grantee fails to operate
15 continuously for two (2) years from the issuance of a CPCN by the ERC.

16 SEC. 13. *Warranty in Favor of the National and Local Governments.* – The
17 Grantee shall hold the national, provincial, city, and municipal governments of the
18 Philippines free from all claims, accounts, demands, or actions arising from
19 accidents causing injury to persons or damage to properties during the construction,
20 installation, operation, and maintenance of the distribution system of the Grantee.

21 SEC. 14. *Liability for Damages.* – The Grantee shall be liable for any injury to
22 persons and damage to properties arising from accidents by reason of any defective
23 construction under this franchise or of any neglect or omission to keep its poles and
24 wires in safe condition.

25 SEC. 15. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* – The
26 Grantee shall not sell, lease, transfer, grant the usufruct of, or assign this franchise
27 or the rights and privileges acquired thereunder to any person, firm, company,
28 corporation, or other commercial or legal entity, or merge with any other
29 corporation, or entity, or shall transfer the controlling interest of the Grantee,
30 whether as a whole or in parts, and whether simultaneously or contemporaneously,
31 to any such person, firm, company, corporation, or entity without the prior approval
32 of the Congress: *Provided*, That Congress shall be informed of any sale, lease,
33 transfer, granting the usufruct of, or assignment of this franchise or the rights and
34 privileges acquired thereunder, or of the merger, or sale of the controlling interest
35 within sixty (60) days after the completion of said transaction: *Provided, further*,
36 That any such transfer, sale, or assignment is in accordance with the constitutional

1 limitations: *Provided, furthermore*, That failure to report to Congress such change of
2 ownership shall render the franchise *ipso facto* revoked: *Provided, finally*, That the
3 limitations set forth in this section shall not apply to: (a) any transfer or issuance of
4 shares of stock in the implementation of the requirement for the dispersal of
5 ownership in the Grantee pursuant to Section 16 of this Act; and (b) any sale,
6 transfer, or assignment of shares of the Grantee in favor of an affiliate whose
7 controlling interest is owned by the same parent corporation of the Grantee.

8
9 Any person or entity to which this franchise is sold, leased, transferred, or
10 assigned, shall be subject to the same conditions, terms, restrictions, and
11 limitations of this Act.

12
13 SEC. 16. *Dispersal of Ownership*. – In accordance with the constitutional
14 provision to encourage public participation in public utilities, the grantee shall offer
15 to the public, specifically Filipino citizens, at least twenty percent (20%) or a higher
16 percentage that may hereafter be provided by law of its outstanding capital stock in
17 any securities exchange in the Philippines within five (5) years from the grant of its
18 CPCN by the ERC: *Provided*, That in cases where a public offer of shares is not
19 applicable, other methods of encouraging public participation by citizens and
20 corporations operating public utilities must be implemented: *Provided, further*,
21 That ownership by the Provincial Government of Bohol ("PGB) of at least twenty
22 percent (20%) of the outstanding capital stock of the Grantee shall be deemed a
23 compliance with the dispersal of ownership requirement.

24
25 In the event the required dispersal of ownership is not implemented within
26 five (5) years from the grant of its CPCN, the holdings of persons, natural or
27 juridical, including directors, officers, stockholders, and related interests in the
28 Grantee and its respective holding company, if any, shall not exceed twenty-five
29 percent (25%) of the voting shares of stock, unless the utility or the company
30 holding the shares or its controlling stockholders are already listed in the Philippine
31 stock exchange: *Provided*, That the ERC may, upon application of the Grantee, and
32 after notice and hearing, allow such reasonable extension of the five (5) - year period
33 within which the Grantee should offer its shares of stock to the public, if the market
34 conditions are not suitable for such listing or in the event that the Grantee cannot
35 comply with the requirements of the Securities and Exchange Commission (SEC) or
36 the Philippine Stock Exchange (PSE) for a public offering, especially the three (3) -
37 year profitability requirement.

38
39 Non-compliance therewith shall render the franchise *ipso facto* revoked.

1 SEC. 17. *Reportorial Requirement.* – The Grantee shall submit an annual
2 report to Congress, through the Committee on Legislative Franchises of the House of
3 Representatives and the Committee on Public Services of the Senate, on its
4 compliance with the terms and conditions of the franchise and on its operations on
5 or before April 30 of every year during the term of the franchise. The reportorial
6 compliance certificate issued by Congress shall be required before any application
7 for permit or certificate is accepted by the ERC.

8 SEC. 18. *Fine.* – The failure of the Grantee to submit the requisite annual
9 report to Congress shall be penalized with a fine in the amount of Five hundred pesos
10 (P500.00) per working day of noncompliance which shall be collected by the ERC.
11 The fine shall be collected separately from the reportorial penalties imposed by the
12 ERC and shall be remitted to the Bureau of the Treasury.

13 SEC. 19. *Equality Clause.* – Any advantage, favor, privilege, exemption, or
14 immunity granted under existing franchises, or which may hereafter be granted,
15 upon prior review and approval of Congress, shall become part of this franchise and
16 be accorded immediately and unconditionally to the herein Grantee: *Provided,*
17 *however,* That the foregoing shall neither apply to nor affect provisions concerning
18 territory covered by the franchise, the term of the franchise, or the type of service
19 authorized by the franchise: *Provided, further,* That the foregoing shall not apply to
20 the sale, lease, transfer, grant of usufruct, or assignment of legislative franchises
21 with prior congressional approval.

22 SEC. 20. *Applicability of Existing Laws.* – The Grantee shall comply with and
23 be subject to the relevant provisions of Commonwealth Act No. 146, or the “Public
24 Service Act”, as amended, and RA No. 9136.

25 SEC. 21. *Repealability and Non-Exclusivity Clause.* – This franchise shall be
26 subject to amendment, alteration, or repeal by Congress when the public interest so
27 requires and shall not be interpreted as an exclusive grant of the privileges herein
28 provided for.

29 SEC. 22. *Separability Clause.* – If any of the sections or provisions of this Act
30 is held invalid, all other provisions not affected thereby shall remain valid.

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

5 SEC. 24. *Effectivity.* – This Act shall take effect fifteen (15) days after its
6 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,