



HOUSE OF REPRESENTATIVES

H. No. 7639

BY REPRESENTATIVES RAMA, RODRIGUEZ (R.), RODRIGUEZ (M.), LAGON (S.), LAGON (D.), DEL MAR, OUANO-DIZON, GULLAS, GALEOS, MADRONA, CAGAS, LAGDAMEO (M.Y.M.), LAGDAMEO (J.M.), BAUTISTA (J.M.), QUIMBO, GARCIA (J.A.), MARAÑON, CORVERA, ANGELES, GARCIA (K.H.), BELTRAN, SANTOS (M.A.), SALCEDA, ROMAN, ALMARIO (C.M.), ACOSTA, DE JESUS, AYON, FERRER (J.), VELOSO AND ROMUALDO

AN ACT

RENEWING FOR TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO VISAYAN ELECTRIC COMPANY, INC. UNDER REPUBLIC ACT NO. 9339, FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITIES OF CEBU, MANDAUE, TALISAY, AND NAGA, AND THE MUNICIPALITIES OF MINGLANILLA, SAN FERNANDO, CONSOLACION, AND LILOAN, PROVINCE OF CEBU

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, the franchise granted to Visayan
3 Electric Company, Inc., hereunder referred to as the Grantee, its successors or
4 assignees, under Republic Act No. 9339 to construct operate and maintain in the public
5 interest and commercial purposes a distribution system for the conveyance of electric
6 power to the end-users in the cities of Cebu, Mandaue, Talisay, and Naga, and the
7 municipalities of Minglanilla, San Fernando, Consolacion, and Liloan, Province of Cebu,
8 is hereby renewed.

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

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

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

23
24 SEC. 3. *Authority of the Energy Regulatory Commission.* – The Grantee shall
25 secure from the ERC or any other government agency having jurisdiction over the
26 operation of the herein Grantee, the necessary certificate of public convenience and
27 necessity and other appropriate permits and licenses for the construction and operation
28 of its electric distribution system.

29
30 SEC. 4. *Excavation and Renovation Works.* – For the purpose of erecting and
31 maintaining poles and other supports for the wires or other conductors, or for the purpose
32 of laying and maintaining underground wires, cables, pipes, or other conductors, the
33 Grantee, its successors, or assignees are authorized to make excavations or lay conduits
34 in any of the public places, highways, roads, streets, lines, alleys, avenues, sidewalks, or
35 bridges of the said province and cities and/or municipalities, subject to prior approval of
36 the Department of Public Works and Highways (DPWH) or the local government unit
37 (LGU) concerned: *Provided, however,* That a public place, highway, road, street, lane,
38 alley, avenue, sidewalk, or bridge disturbed, altered, or changed by reason of the erection
39 of poles or other supports or the underground laying of wires, other conductors or
40 conduits, shall be repaired and/or replaced in workmanlike manner at the expense of the
41 Grantee, its successors, or assignees, in accordance with the standards set by the DPWH
42 or the relevant LGU concerned.

43
44 Should the Grantee, its successors, or assignees, after ten (10) days from notice of
45 the granting authority, fail, refuse, or neglect to begin repairing or replacing any part of
46 public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been
47 disturbed, altered, or changed by the said Grantee, its successors, or assignees, then the

1 DPWH or the LGU concerned shall have the right to have the same repaired and/or
2 replaced in good order and condition and charge the Grantee, its successors, or
3 assignees at double the amount of the costs and expenses for such repair or replacement.
4

5 SEC. 5. *Responsibility to the Public.* – The Grantee shall supply electricity to its
6 captive market in urban and rural portions of its franchise area, including unviable areas,
7 in the least costly manner. In the interest of the public good and as far as feasible and
8 whenever required by the ERC, the Grantee shall modify, improve, or change its facilities,
9 poles, lines, systems, and equipment for the purpose of providing efficient and reliable
10 service and reasonable electricity costs. The Grantee shall charge reasonable and just
11 power rates for its services to all types of consumers within its franchise area as approved
12 by the ERC.
13

14 The Grantee shall have the obligation to provide open and non-discriminatory
15 access to its distribution system and services for any end-user within its franchise area
16 consistent with Republic Act No. 9136, otherwise known as the "Electric Power Industry
17 Reform Act of 2001," as amended. The Grantee shall not engage in any activity that will
18 constitute an abuse of market position or anti-competitive behavior as defined under
19 Republic Act No. 10667, otherwise known as the "Philippine Competition Act," such as
20 but not limited to, unfair trade practices, monopolistic schemes, and other activities that
21 will hinder competitiveness of businesses and industries.
22

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

27 The Grantee shall identify and segregate in its electricity bill to the end-users the
28 components of the retail rate pursuant to Republic Act No. 9136, as amended. Such rates
29 charged by the Grantee to the end-users shall be made public and transparent. The
30 Grantee shall likewise implement Republic Act No. 10150 or the Act extending the
31 implementation of the lifeline rate under EPIRA, Republic Act No. 9994, otherwise known
32 as the "Expanded Senior Citizens Act of 2010," and other relevant statutes as long as
33 they are in effect.
34

35 SEC. 7. *Promotion of Consumer Interests.* – The herein Grantee shall establish a
36 platform to handle consumer concerns and complaints and ensure adequate promotion
37 of consumer interests in accordance with applicable rules and regulations of the ERC, its
38 successor, and other relevant regulatory agencies. The Grantee shall act with dispatch
39 on and resolve all complaints brought before it within such period as may be determined
40 by the ERC.
41

42 SEC. 8. *Right of the Government.* – A special right is hereby reserved to the
43 President of the Philippines in times of war, rebellion, public peril, calamity, emergency,
44 disaster, or disturbance of peace and order to temporarily take over and operate the
45 distribution system of the Grantee; temporarily suspend the operation of any station or
46 facility in the interest of public safety, security, and public welfare; or to authorize the
47 temporary use and operation thereof by any agency/department of the government upon

1 the payment of due compensation to the Grantee, its successors, or assignees, for the
2 use of the said distribution system during the period when this shall be operated.
3

4 SEC. 9. *Right of Eminent Domain.* – Subject to the limitations and procedures
5 prescribed by law, the Grantee is authorized to exercise the right of eminent domain
6 insofar as it may be reasonably necessary for the efficient establishment, improvement,
7 upgrading, rehabilitation, maintenance, and operation of services. The Grantee is
8 authorized to install and maintain its poles, wires, and other facilities over, under, and
9 across public property, including streets, highways, and other similar property of the
10 Government of the Philippines, its branches or any of its instrumentalities. The Grantee
11 may acquire such private property necessary for the realization of the purposes of this
12 franchise: *Provided*, That proper expropriation proceedings shall have been instituted and
13 just compensation paid.
14

15 SEC. 10. *Term of Franchise.* – This franchise shall be for a term of twenty-five (25)
16 years from the expiration of the current franchise granted under Republic Act No. 9339.
17 This franchise shall be deemed *ipso facto* revoked in the event that the Grantee fails to
18 operate continuously for two (2) years.
19

20 SEC. 11. *Warranty in Favor of National and Local Governments.* – The Grantee
21 shall hold the national, provincial, city, and municipal governments of the Philippines
22 harmless from all claims, liabilities, demands, or actions arising from accidents that cause
23 injury to persons and/or damage to property during the construction, installation,
24 operation, and maintenance of the distribution system of the Grantee.
25

26 SEC. 12. *Liability for Damages.* – The Grantee shall be liable for any injury to
27 persons and/or damage to property arising from accidents by reason of any defective
28 construction under this franchise or any neglect or omission to keep its poles and wires
29 in a safe condition.
30

31 SEC. 13. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* – The
32 Grantee shall not sell, lease, transfer, grant the usufruct of, or assign this franchise or the
33 rights and privileges acquired thereunder to any person, firm, company, corporation, or
34 other commercial or legal entity, or merge with any other corporation, or entity, or shall
35 transfer the controlling interest of the Grantee, whether as a whole or in parts, and
36 whether simultaneously or contemporaneously, to any such person, firm, company,
37 corporation, or entity without the prior approval of the Congress: *Provided*, That Congress
38 shall be informed of any lease, transfer, granting the usufruct of, sale, or assignment of
39 franchise or the rights and privileges acquired thereunder, or of the merger, or sale of the
40 controlling interest within sixty (60) days after the completion of said transaction:
41 *Provided, further*, That any such transfer, sale, or assignment is in accordance with the
42 constitutional limitations: *Provided, furthermore*, That failure to report to Congress such
43 change of ownership shall render the franchise *ipso facto* revoked: *Provided, finally*, That
44 any person or entity to which this franchise is sold, transferred, or assigned shall be
45 subject to the same conditions, terms, restrictions, and limitations of this Act.

1 SEC. 14. *Dispersal of Ownership.* – In accordance with the constitutional provision
2 encouraging public participation in public utilities and subject to Section 43(t) of Republic
3 Act No. 9136, the Grantee shall offer to the public at least fifteen percent (15%) of its
4 common shares of stock or a higher percentage that may hereafter be provided by law
5 within five (5) years from the effectivity of this Act: *Provided*, That should the Grantee's
6 holding company is already listed in the Philippine Stock Exchange, the Grantee shall be
7 deemed in compliance therewith: *Provided, further*, That in cases where public offer of
8 shares is not applicable, establishment of cooperatives and other methods of encouraging
9 public participation by citizens and corporations operating public utilities must be
10 implemented. Non-compliance therewith shall render the franchise *ipso facto* revoked.

11 SEC. 15. *Commitment to Provide and Promote the Creation of Employment*
12 *Opportunities.* – The Grantee shall create employment opportunities and shall allow on-
13 the-job training in their franchise operation: *Provided*, That priority shall be accorded to
14 the residents of the franchise area: *Provided, further*, That the Grantee shall follow the
15 applicable labor standards and allowance entitlement under existing labor laws, rules,
16 and regulations and similar issuances.

17
18 SEC. 16. *Reportorial Requirement.* – The Grantee shall submit an annual report of
19 its finances and operations to the Congress of the Philippines, through the Committee on
20 Legislative Franchises of the House of Representatives and the Committee on Public
21 Services of the Senate, on its compliance with the terms and conditions of the franchise
22 and on its operations on or before April 30 of every year after the effectivity of this Act.

23
24 The annual report shall include: an update on the rollout, development, operation,
25 and/or expansion of the business; audited financial statements; latest General Information
26 Sheet officially submitted to the Securities and Exchange Commission; certification from
27 the ERC on the status of its permits and operations; and an update on the dispersal of
28 ownership undertaking, if applicable. The reportorial compliance certificate issued by
29 Congress shall be required before any application for permit or certificate is accepted by
30 the ERC.

31
32 SEC. 17. *Fine.* – Failure of the Grantee to submit the requisite annual report to
33 Congress shall be penalized by a fine of Five hundred pesos (P500.00) per working day
34 of non-compliance. The fine shall be collected by the ERC from the Grantee separate
35 from the reportorial penalties imposed by the ERC and the same shall be remitted to the
36 Bureau of the Treasury.

37
38 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege, exemption, or
39 immunity granted under existing franchises, or which may hereafter be granted upon prior
40 review and approval of Congress, shall become part of this franchise and shall be
41 accorded immediately and unconditionally to the herein Grantee: *Provided, however*, That
42 the foregoing shall neither apply to nor affect provisions concerning territorial coverage,
43 the term, or the type of service authorized by the franchise: *Provided, further*, That the
44 foregoing shall not apply to the sale, lease, transfer, grant of usufruct, or assignment of
45 legislative franchises with prior congressional approval.

1 SEC. 19. *Applicability of the Existing Laws.* – The Grantee shall comply with and
2 be subject to the provisions of the Commonwealth Act. No. 146, or the “Public Service
3 Act,” as amended; Republic Act No. 9136, as amended; Republic Act No. 9513, or the
4 “Renewable Energy Act of 2008”; Republic Act No. 11361, or the “Anti-Obstruction of
5 Power Lines Act”; and other applicable laws.
6

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

11 SEC. 21. *Separability Clause.* – If any of the sections or provisions of this Act is
12 held invalid, all other provisions not affected thereby shall remain valid.
13

14 SEC. 22. *Repealing Clause.* – All laws, decrees, orders, resolutions, instructions,
15 and rules and regulations or parts thereof, which are inconsistent herewith, are hereby
16 deemed repealed or modified accordingly.
17

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

Approved,