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First Regular Session }

**HOUSE OF REPRESENTATIVES**

H. No. 5297

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INTRODUCED BY HONORABLE LAZATIN, ZUBIRI, JR., MADRONA, TUPAS, CATANE, ESPINA, RAMA, SR., BAGATSING (A.), SALALIMA, BENGSON III, YULO, PEREZ, JR., BARBERS, PARAS, LOCSIN, DEL MAR, TINGA, LIBAN, CUA, ESCUDERO III, ROMUALDO, TUAZON, ZARRAGA, SUAREZ, MARAÑON, RAMIRO, ESPINOSA, AQUINO (H.), LOBREGAT, FUGOSO, ASISTIO, MATTI, VALDEZ, AND MARTINEZ, JR.

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AN ACT GRANTING THE GENERAL TELEPHONE SYSTEM, INC., A FRANCHISE TO CONSTRUCT, INSTALL, MAINTAIN, ESTABLISH AND OPERATE LOCAL EXCHANGE NETWORK IN THE MUNICIPALITIES OF ATIMONAN, CANDELARIA, GUMACA, INFANTA, SARIAYA, TIAONG, DOLORES, AND PITOGO, PROVINCE OF QUEZON; THE MUNICIPALITIES OF PADRE GARCIA, SAN JUAN, AND MABINI, PROVINCE OF BATANGAS; THE MUNICIPALITY OF PASACAO, PROVINCE OF CAMARINES SUR; AND THE MUNICIPALITY OF PARACALE, PROVINCE OF CAMARINES NORTE

*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  
2 provisions of the Constitution and applicable laws, rules and

1 regulations, there is hereby granted to the General Telephone System,  
2 Inc., hereunder referred to as the grantee, its successors or assigns, a  
3 franchise to construct, establish, install, maintain and operate for  
4 commercial purposes and in the public interest, local exchange  
5 network, including public calling stations or pay telephone stations or  
6 wireless local loop and for such purpose provide basic telephone  
7 service or other means related to the foregoing now known to science  
8 or which in the future may be developed, in the Municipalities of  
9 Atimonan, Candelaria, Gumaca, Infanta, Sariaya, Tiaong, Dolores,  
10 and Pitogo, Province of Quezon; the Municipalities of Padre Garcia,  
11 San Juan and Mabini, Province of Batangas, the Municipality of  
12 Pasacao, Province of Camarines Sur; and the Municipality of  
13 Paracale, Province of Camarines Norte, for public domestic  
14 telecommunications.

15 SEC. 2. *Manner of Operation of Stations or Facilities.*- The  
16 stations or facilities of the grantee shall be constructed and operated  
17 in a manner as will, at most, result only in the minimum interference  
18 on the wavelengths or frequencies of the existing stations or other  
19 stations which may be established by law, without in any way  
20 diminishing its own right to use its selected wavelengths or  
21 frequencies and the quality of transmission or reception thereon as  
22 should maximize rendition of the grantee's services and/or the  
23 availability thereof. In no way shall the operations of the grantee, nor  
24 the radiated power of its stations or facilities, exceed that required to  
25 cover the area where it is allowed to operate.

SEC. 3. *Authority of the National Telecommunications*

1 Commission. - The grantee shall secure from the National  
2 Telecommunications Commission, hereinafter referred to as the  
3 Commission, a Certificate of Public Convenience or the appropriate  
4 permits and licenses for the location, construction, installation and  
5 operation of its telecommunications systems. In issuing the certificate,  
6 the Commission shall have the power to impose such conditions  
7 relative to the construction, operation, maintenance, or service level  
8 of the telecommunications system. The Commission shall have the  
9 authority to regulate the construction and operation of its  
10 telecommunications systems. The grantee shall not use any frequency  
11 in the radio spectrum without having been authorized by the  
12 Commission. Such certificate shall state the areas covered and the  
13 date the grantee shall commence the service. The Commission,  
14 however, shall not unreasonably withhold or delay the grant of any  
15 such authority, permits or licenses.

17 SEC. 4. *Responsibility to the Public.* - The grantee shall  
18 conform to the ethics of honest enterprise and shall not use its stations  
19 for obscene or indecent transmission or for dissemination of  
20 deliberately false information or willful misrepresentation, or assist in  
21 subversive or treasonable acts.

22 The grantee shall provide basic or enhanced telephone service  
23 in any municipality in the Philippines where it has an approved  
24 Certificate of Public Convenience for the establishment, operation,  
25 and maintenance of a local exchange service, without discrimination

1 to any applicant therefor, in the order of the date of their applications,  
2 up to the limit of the capacity of its local telephone exchange, and  
3 should the demand for the telephone service at any time increase  
4 beyond the capacity thereof, the grantee shall increase the same to  
5 meet such demand: *Provided*, That in case the total demand to be  
6 satisfied by the expansion is less than the smallest viable local  
7 exchange available in the market as determined by the Commission,  
8 the grantee shall not be obliged to furnish said service, unless the  
9 applicant for telephone service defrays the actual expenses for the  
10 installation of the telecommunication apparatus necessary for such  
11 services and in such case the Commission may extend the time within  
12 which the grantee shall furnish such service.

13 The grantee shall operate and maintain all its stations, lines,  
14 cables, systems and equipment for the transmission and reception of  
15 messages, signals and pulses in a satisfactory manner at all times, and  
16 as far as economical and practicable, modify, improve or change such  
17 stations, lines, cables, systems and equipment to keep abreast with the  
18 advances in science and technology.

19 SEC. 5. *Rates for Services.* - The charges and rates for  
20 telecommunications services of the grantee, except the rates and  
21 charges on those that may hereafter be declared or considered as non-  
22 regulated services, whether flat rates or measured rates or variation  
23 thereof, shall be subject to the approval of the Commission or its legal  
24 successors. The rates to be charged by the grantee shall be unbundled,  
25 separable and distinct among the services offered and shall be

determined in such a manner that regulated services do not subsidize the unregulated ones.

SEC. 6. *Right of 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, transmitters, facilities or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility or equipment 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 stations, transmitters, facilities or equipment during the period when the shall be so operated.

The radio spectrum is a finite resource that is a part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn anytime, after due process.

SEC. 7. *Term of Franchise.* - This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed *ipso facto* revoked, in the event the grantee fails to comply with any of the following conditions:

a) Commence operations within three (3) years from the approval of its operating permit or provisional authority by the National Telecommunications Commission;

b) Operate continuously for two (2) years; and

c) Commence operations within five (5) years from the effectivity of this Act.

SEC. 8. *Acceptance and Compliance.* - Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Non-acceptance shall render the franchise void.

SEC. 9. *Bond.* - If the grantee is not yet operational, the grantee shall file a bond issued in favor of the National Telecommunications Commission, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If after five (5) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise the bond shall be forfeited in favor of the Government and the franchise *ipso facto* revoked.

SEC. 10. *Right of Interconnection.* - The grantee is hereby authorized to connect or demand connection of its telecommunications systems to any other telecommunications systems installed, operated and maintained by any other duly-authorized person or entity in the philippines for the purpose of providing extended and improved telecommunications services to the public under such terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to the review or modification of the Commission.

1        SEC. 11. *Tax Provisions.* - The grantee, its successors or  
 2 assigns, shall be liable to pay the same taxes on their real estate,  
 3 buildings and personal property, exclusive of this franchise, as other  
 4 persons or corporations are now or hereafter may be required by law  
 5 to pay. In addition thereto, the grantee, its successors or assigns, shall  
 6 pay the value added tax under Republic Act No. 7716 or a franchise  
 7 tax of three percent (3%) per annum or at such percentage as may  
 8 be prescribed by law, on all gross receipts of its telecommunications  
 9 business transacted under this franchise, whichever is higher:  
 10 *Provided,* That the grantee, its successors or assigns, shall continue  
 11 to be liable for income taxes payable under Title II of the National  
 12 Internal Revenue Code pursuant to Section 2 of Executive Order No.  
 13 72, unless the latter enactment is amended or repealed, in which case  
 14 the amendment or repeal shall be applicable thereto.

15        The grantee shall file the return with, and pay the taxes due  
 16 thereon to the Commissioner of Internal Revenue or his duly  
 17 authorized representatives in accordance with the National Internal  
 18 Revenue Code and the return shall be subject to audit by the Bureau  
 19 of Internal Revenue.

20        SEC. 12. *Gross Receipts.* - The grantee, its successors or  
 21 assigns, shall keep a separate account of the gross receipts of the  
 22 business transacted by it and shall furnish the Commission on Audit  
 23 and the National Treasury a copy of such account not later than the  
 24 31st day of January of each year, for the preceding twelve (12)  
 25 months.

1        SEC. 13. *Books and Accounts.* - The books and accounts of the  
 2 grantee, its successors or assigns, shall always be open to the  
 3 inspection of the Commissioner on Audit or his authorized  
 4 representatives, and it shall be the duty of the grantee to submit to the  
 5 Commission on Audit, two (2) copies of the quarterly reports on the  
 6 gross receipts, the net profits and the general condition of the  
 7 business.

8        SEC. 14. *Warranty in Favor of National and Local*  
 9 *Governments.* - The grantee shall hold the national, provincial, city  
 10 and municipal governments of the Philippines harmless from all  
 11 claims, accounts, demands or actions arising out of accidents or  
 12 injuries, whether to property or to persons, caused by the construction  
 13 or operation of the stations, transmitters, facilities and equipment of  
 14 the grantee.

15        SEC. 15. *Sale, Lease, Transfer, Usufruct, Etc.* - The grantee  
 16 shall not lease, transfer, grant the usufruct of, sell nor assign this  
 17 franchise or the rights and privileges acquired thereunder to any  
 18 person, firm, company, corporation or other commercial or legal  
 19 entity, nor merge with any corporation or entity, nor shall the  
 20 controlling interest in the grantee be transferred, whether as a whole  
 21 or in parts and whether simultaneously or contemporaneously, to any  
 22 such person, firm, company, corporation or entity without the prior  
 23 approval of the Congress of the Philippines, except when such person,  
 24 firm, company, corporation or entity has a valid and existing  
 25 legislative franchise for telecommunications or it is in pursuance of  
 26 the provisions of Section 16 of this Act. Any person or entity to which

1 this franchise is sold, transferred or assigned, shall be subject to the  
2 same conditions, terms, restrictions, and limitations of this Act.

3 SEC. 16. *Dispersal of Ownership.* - In accordance with the  
4 constitutional provisions to encourage public participation in the  
5 public utilities, the grantee shall offer at least thirty *percentum* (30%)  
6 of its outstanding capital stock or a higher percentage that may  
7 hereafter be provided by law in any securities exchange in the  
8 Philippines within ten (10) years from the commencement of its  
9 operations or from the effectivity of this Act, whichever is later. Non-  
10 compliance therewith shall render the franchise *ipso facto* revoked.

11 SEC. 17. *Separability Clause.* - If any of the sections or  
12 provisions of this Act is held invalid, all the other provisions not  
13 affected thereby shall remain valid.

14 SEC. 18. *Repealability and Non-exclusivity Clause.* - This  
15 franchise shall be subject to amendment, alteration, or repeal by the  
16 Congress of the Philippines when the public interest so requires and  
17 shall not be interpreted as an exclusive grant of the privileges herein  
18 provided for.

19 SEC. 19. *Reportorial Requirement.* - The grantee shall submit  
20 an annual report to the Congress of the Philippines on its compliance  
21 with the terms and conditions of its franchise and on its operations  
22 within sixty (60) days from the end of every year.

23 SEC. 20. *Effectivity Clause.* - This act shall take effect fifteen  
24 (15) days from the date of its publication in at least two (2)  
25 newspapers of general publication.

Approved,

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