

H No. 4358

Republic of the Philippines  
Congress of the Philippines  
Metro Manila  
Fourteenth Congress  
Second Regular Session

---

Began and held in Metro Manila, on Monday, the twenty-eighth day of July, two thousand eight.

[ REPUBLIC ACT NO. 9511 ]

AN ACT GRANTING THE NATIONAL GRID CORPORATION OF THE PHILIPPINES A FRANCHISE TO ENGAGE IN THE BUSINESS OF CONVEYING OR TRANSMITTING ELECTRICITY THROUGH HIGH VOLTAGE BACK-BONE SYSTEM OF INTERCONNECTED TRANSMISSION LINES, SUBSTATIONS AND RELATED FACILITIES, AND FOR OTHER PURPOSES

*Be it enacted by the Senate and 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, and subject to the terms and conditions of the concession agreement and other documents executed with the National Transmission Corporation (TRANSCO) and the Power Sector Assets and Liabilities Management Corporation (PSALM) pursuant to Section 21 of Republic Act No. 9136, which are not inconsistent herewith, there is hereby granted to the National Grid Corporation of the Philippines, hereunder referred to as the Grantee, its successors or assigns, a franchise to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines. The Grantee shall continue to operate and maintain the subtransmission systems which have not been disposed by TRANSCO. Likewise, the Grantee is authorized to engage in ancillary business and any related business which maximizes utilization of its assets such as, but not limited to, telecommunications system, pursuant to Section 20 of Republic Act No. 9136. The scope of the franchise shall be nationwide in accordance with the Transmission Development Plan, subject to amendments or modifications of the said Plan, as may be approved by the Department of Energy of the Republic of the Philippines.

SEC. 2. *Terms and Conditions of the Franchise.* – This franchise shall be for a term of fifty (50) years from the date of effectivity of this Act, and is hereby granted under the condition that it shall be subject to amendment, alteration, or repeal by Congress when the common good so requires. During the period of operation of the franchise herein granted, at least sixty per centum (60%) of the capital of the Grantee shall be owned by citizens of the Philippines. The Grantee shall comply with the Constitution and applicable laws pertaining to foreign ownership and management of public utilities.

SEC. 3. *Manner of Operation of System or Facilities.* – The transmission system, grid and related facilities maintained, operated or managed by the Grantee, its successors or assigns,

shall be operated and maintained at all times in accordance with industry standards, 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, to modify, improve and change such system or facilities in such manner and to such extent as the progress in science and improvements in the electric power services may reasonably require.

SEC. 4. *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 construction, expansion, and efficient maintenance and operation of the transmission system and grid and the efficient operation and maintenance of the subtransmission systems which have not yet been disposed by TRANSCO. 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 the applicable law on eminent domain shall be observed, particularly, the prerequisites of taking of possession and the determination and payment of just compensation.

SEC. 5. *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 transmission system, and/or the subtransmission systems operated and maintained by the Grantee, to temporarily suspend the operation of any portion thereof, or the 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 said transmission system, and subtransmission systems and any portion thereof during the period when they shall be so operated.

SEC. 6. *Sale, Lease, Transfer, Usufruct, etc.* – The Grantee shall not lease, transfer, grant the usufruct of, or sell this franchise or the rights and privileges acquired hereunder to any person, firm, company or other commercial or legal entity,

nor merge with any other company or entity, nor shall the controlling interest of the Grantee be transferred, whether in whole or in part, and whether simultaneously or contemporaneously, to any person, firm, company or entity without the prior approval of the Congress of the Philippines: *Provided*, That the foregoing limitation shall not apply to any transfer or issuance of shares of stock in the implementation of the requirement for the Grantee's dispersal of ownership pursuant to Section 8 of this Act; or to any issuance of shares to any foreign or local investors pursuant to or in connection with any increase in the Grantee's authorized capital stock which results in the dilution of the stockholdings of the Grantee's then existing stockholders: *Provided, moreover*, That the foregoing limitations shall not apply to any transfer, sale or issuance of shares of stock at the level of corporate stockholders of the Grantee: *Provided, furthermore*, That the foregoing limitations shall not apply in case of assignment or transfer of the operation of any of its related business such as, but not limited to, telecommunications business to another entity: *Provided, however*, That any such transfer, sale or issuance at the level of the corporate stockholders of the Grantee is in accordance with applicable constitutional limitations: *Provided, finally*, That any person or entity to which such shares are sold, transferred or assigned under this Act shall be subject to the same conditions, terms, restrictions and limitations of this Act.

*SEC. 7. Cross-Ownership; Market Power Abuse and Anti-Competitive Behavior.* – The Grantee shall not engage in any anti-competitive behavior including, but not limited to, cross-subsidization, price or market manipulation, or other unfair trade practices detrimental to the encouragement and protection of contestable markets.

The Grantee or any of its stockholders, directors or officers thereof, or any of their relatives within the fourth civil degree of consanguinity and their respective spouses, shall not be allowed to hold any shares of stock in any Power Industry Player as defined in this Act. And a Power Industry Player or its stockholders, directors or officers thereof, or any of their relatives within the fourth civil degree of consanguinity and their respective spouses, shall not be allowed to hold any shares of stock in the Grantee:

*Provided*, That the cross-ownership prohibition under this provision shall not apply to a relative by blood or marriage, if such relative of any stockholder, director or officer of the Grantee has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in the Grantee, or conversely, if such relative of any stockholder, director or officer of a Power Industry Player has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in the Power Industry Player: *Provided, further*, That this prohibition on cross-ownership shall not apply to: (a) ownership of shares of stock in a company listed in the Philippine Stock Exchange (PSE) even if such listed company is a Power Industry Player, if such share ownership is not more than one *per centum* (1%) of the total outstanding shares of such listed Power Industry Player; or (b) ownership of shares of stock which is not more than one *per centum* (1%) in a company listed in the PSE which owns or controls shares of stock in the Grantee: *Provided, moreover*, That such owner of shares of stock in the listed corporate stockholder of the Grantee shall not own more than one *per centum* (1%) of the shares of stock or equity interest in any Power Industry Player.

No shares of stock issued or acquired in violation hereof shall be allowed to vote or be entitled to representation at any stockholders' meeting of the Grantee, nor shall the holder thereof be entitled to any of the rights of a stockholder of the Grantee, including the right to dividends, during the existence of such prohibited cross-ownership.

The losing bidders in the bid to operate the transmission and subtransmission facilities of TRANSCO, their principals, subsidiaries, affiliates, stockholders, directors and officers shall not be allowed to, directly or indirectly, be transferees or beneficial owners of the Grantee's shares of stock or any ownership rights pertaining thereto, for a period of ten (10) years from the effectivity of this Act.

The losing bidders, their principals, subsidiaries, affiliates, stockholders, directors and officers are likewise prohibited to, directly or indirectly, acquire or receive any pecuniary interest in

the operations by the Grantee of this franchise for a period of ten (10) years from the effectivity of this Act.

An "affiliate" means any person which, alone or together with any other person, directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control, with another person. As used herein, "control" shall mean the power to direct or cause the direction of the management policies of a person by contract, agency or otherwise.

A "Power Industry Player" for purposes of this provision means a generation company, distribution utility, or its respective subsidiary or affiliate, or other entity engaged in generating and supplying electricity specified by the ERC.

The provisions on cross-ownership under Section 45 of Republic Act No. 9136 which are inconsistent with this provision shall be deemed modified accordingly insofar as the Grantee is concerned. The Grantee may provide ancillary services or engage in any related business which maximizes utilization of its assets.

**SEC. 8. Dispersal of Ownership.** -- The Grantee shall list, subject to the requirements of the Securities and Exchange Commission (SEC) and the PSE, and make a public offering of the shares representing at least twenty *per centum* (20%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law within ten (10) years from the commencement of its operations: *Provided*, That the listing in the PSE of any company which directly or indirectly owns or controls at least thirty *per centum* (30%) of the outstanding shares of stock of the Grantee shall be considered full compliance of this listing requirement. In case compliance with this requirement is not reached, the ERC may, upon application of the Grantee, and after notice and hearing, allow such reasonable extension of the period within which the Grantee should list its shares of stock, if the market condition is not suitable for such listing.

**SEC. 9. Tax Provisions.** -- In consideration of the franchise and rights hereby granted, the Grantee, its successors or assigns,

shall pay a franchise tax equivalent to three percent (3%) of all gross receipts derived by the Grantee from its operation under this franchise. Said tax shall be in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted: *Provided*, That the Grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay: *Provided, further*, That payment by Grantee of the concession fees due to PSALM under the concession agreement shall not be subject to income tax and value-added tax (VAT).

SEC. 10. *Acceptance and Compliance.* – Acceptance of this franchise shall be given in writing by the Grantee within sixty (60) days after the effectivity of this Act.

SEC. 11. *Warranty in Favor of National and Local Government.* – The Grantee shall hold the national, provincial and other local governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or persons, caused by the construction, installation, operation and maintenance of the transmission system and the grid.

SEC. 12. *Ingress and Egress.* – For the purpose of constructing and/or maintaining transmission and subtransmission assets and other related support facilities, it shall be lawful for the Grantee, its successors and assigns, with the approval of the relevant national and local government agencies concerned and the posting of bonds, as may be appropriate, to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges within the Philippines: *Provided, however*, That any public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of the construction and/or maintenance of transmission and subtransmission assets and other

related support facilities shall be immediately repaired and properly restored at the expense of the Grantee, its successors and assigns, in accordance with the standards set by the relevant national and local government agencies concerned.

SEC. 13. *Transfer of Personnel.* – Pursuant to Section 63 of Republic Act No. 9136 or the EPIRA Law, and subject to the qualification requirements as may be set by the Grantee, and subject further to the continued existence of their positions and functions in the Grantee's work force, current employees of TRANSCO shall be given preference within the one hundred sixty-five (165)-day period from commencement date over new job applicants in the hiring by the Grantee of its manpower requirements.

Notwithstanding the grant of this franchise, and subject to the conditions provided herein, employees of TRANSCO shall be entitled to receive from the government all benefits provided under Section 63 of Republic Act No. 9136 without prejudice to such other additional benefits as the Board of Directors of TRANSCO may determine.

SEC. 14. *Applicability Clause.* – The Grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Services Act", which have not otherwise been modified or repealed by Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.

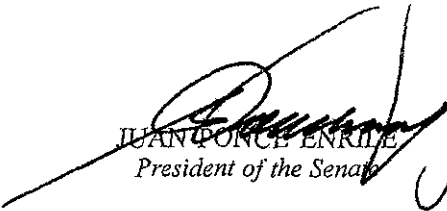
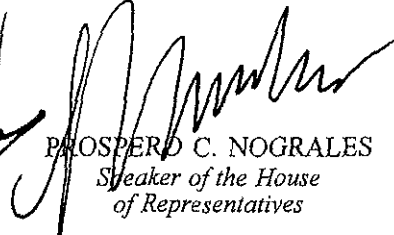
SEC. 15. *Reportorial Requirement.* – The Grantee shall submit an annual report of finances and operations to the Congress of the Philippines.

SEC. 16. *Separability Clause.* – If, for any reason, any of the sections or provisions of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.




SEC. 17. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication, upon the initiative of the Grantee, in at least two (2) newspapers of general circulation in the Philippines.

Approved,

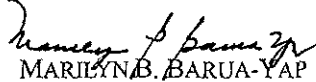



JUAN PONCE ENRILE      PROSPERO C. NOGRALES  
*President of the Senate*      *Speaker of the House of Representatives*

This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on November 19, 2008 and November 17, 2008, respectively.



EMMA LIRIO REYES  
*Secretary of the Senate*



MARILYN B. BARUA-YAP  
*Secretary General House of Representatives*

Approved: DEC 01 2008



GLORIA MACAPAGAL-ARROYO  
*President of the Philippines*



O

