



HOUSE OF REPRESENTATIVES

H. No. 5654

BY REPRESENTATIVES SACDALAN, ALVAREZ (F.), CATAMCO AND TEJADA, PER
COMMITTEE REPORT NO. 239

AN ACT GRANTING A LEGISLATIVE FRANCHISE TO
COTABATO ELECTRIC COOPERATIVE, INC.-PPALMA
(COTELCO-PPALMA) TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM
FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END
USERS IN THE MUNICIPALITIES OF PIKIT, PIGCWAYAN,
ALEOSAN, LIBUNGAN, MIDSAYAP AND ALAMADA,
PROVINCE OF COTABATO, AND ITS NEIGHBORING
SUBURBS

*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
2 of the Constitution and applicable laws, rules and regulations, there is
3 hereby granted to the Cotabato Electric Cooperative, Inc.-PPALMA
4 (COTELCO-PPALMA), hereunder referred to as the grantee, its successors or
5 assignees, a franchise to construct, install, establish, operate and maintain for
6 public interest, a distribution system for the conveyance of electric power to
7 the end users in the municipalities of Pikit, Pigcawayan, Aleosan, Libungan,
8 Midsayap and Alamada, Province of Cotabato, and its neighboring suburbs.
- 9 SEC. 2. *Manner of Operation of Facilities.* – All electric distribution
10 facilities, lines, and systems for electric services owned, maintained, operated,

1 or managed by the grantee, its successors or assignees, shall be operated and
2 maintained at all times in the best manner, and it shall be the duty of the
3 grantee, its successors or assignees, whenever required to do so by the Energy
4 Regulatory Commission (ERC) or its legal successor, or the Department of
5 Energy (DOE) or its legal successor, or the National Electrification
6 Administration (NEA) or its legal successor, or any other government agency
7 concerned, to modify, improve and change such facilities or systems in such a
8 manner and to such extent as the progress in science and improvements in the
9 electric power service industry may render reasonable and proper.

10 Whenever practicable and for purposes of maintaining order, safety and
11 aesthetics along highways, roads, streets, alleys, or easements, the grantee may
12 allow the use of its poles, facilities, or easements by interested parties upon
13 reasonable compensation. The ERC or the NEA shall resolve cases of dispute
14 or disagreement between parties.

15 *SEC. 3. Authority of the Energy Regulatory Commission (ERC) and the*
16 *National Electrification Administration (NEA).* – The grantee shall secure
17 from the ERC or the NEA, or any other government agency which has
18 jurisdiction over the operation of the herein grantee, the necessary certificate
19 of public convenience and necessity and other appropriate permits and licenses
20 for the construction and operation of its electric distribution system.

21 *SEC. 4. Excavation and Restoration Works.* – For the purpose of
22 erecting and maintaining poles and other supports for wires or other
23 conductors for laying and maintaining underground wires, cables, pipes or
24 other conductors, the grantee, its successors or assignees, is authorized to
25 make excavations or lay conduits in any of the public places, roads, highways,
26 streets, lanes, alleys, avenues, sidewalks, or bridges of said province, cities
27 and/or municipalities, subject to prior approval of the Department of Public
28 Works and Highways (DPWH) or the local government units (LGUs)
29 concerned: *Provided, however,* That any public place, road, highway, street,

1 lane, alley, avenue, sidewalk, or bridge disturbed, altered, or changed by
2 reason of erection of poles or other supports or the underground laying of
3 wires, other conductors or conduits, shall be repaired or replaced in
4 workmanlike manner at the expense of the grantee, its successors or assignees,
5 in accordance with the standards set by the DPWH or the LGU concerned.
6 Should the grantee, its successors or assignees, after the ten (10)-day notice
7 from the said authority, fail, refuse or neglect to repair or replace any part of
8 public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge
9 disturbed, altered, or changed by the said grantee, its successors or assignees,
10 then the DPWH or the LGU concerned shall have the right to have the same
11 repaired or replaced in good order and condition and charge the grantee, its
12 successor or assignees, at double the amount of the costs and expenses for
13 such repair or replacement.

14 *SEC. 5. Responsibility to the Public.* — The grantee shall supply
15 electricity to its captive market in the least costly manner. In the interest of the
16 public good and as far as feasible and whenever required by the ERC, the
17 grantee shall modify, improve or change its facilities, poles, lines, systems,
18 and equipment for the purpose of providing efficient and reliable service and
19 reduced electricity costs. The grantee shall charge reasonable and just power
20 rates for its services to all types of consumers within its franchised areas.

21 The grantee shall have the obligation to provide open and
22 nondiscriminatory access to its distribution system and services to any end
23 user within its franchise area consistent with Republic Act No. 9136,
24 otherwise known as the "Electric Power Industry Reform Act of 2001". The
25 grantee shall not engage in any activity that will constitute an abuse of market
26 power such as unfair trade practices, monopolistic schemes, and any other
27 activities that will hinder competitiveness of business and industry.

1 SEC. 6. *Rates for Services.* — The retail rates and charges for the
2 distribution of electric power by the grantee to its end user shall be regulated
3 by and subject to the approval of the ERC or its legal successor.

4 The grantee shall identify and itemize in its electricity bill to the end
5 users the components of the retail rate pursuant to Republic Act No. 9136.
6 Such rates charged by the grantee to the end users shall be made public and
7 transparent. The grantee shall implement lifeline rate to marginalized end
8 users as mandated under Republic Act No. 9136.

9 SEC. 7. *Protection of Consumer Interests.* — The herein grantee shall
10 establish a consumer desk that will handle consumer complaints and ensure
11 adequate protection of consumer interests. The grantee shall act with dispatch
12 on all complaints brought before it.

13 SEC. 8. *Right of the Government.* — A special right is hereby reserved
14 to the President of the Philippines, in times of war, rebellion, public peril,
15 calamity, emergency, disaster or disturbance of peace and order: to
16 temporarily take over and operate the distribution system of the grantee; to
17 temporarily suspend the operation of any station or facility in the interest of
18 public safety, security and public welfare; or to authorize the temporary use
19 and operation thereof by any agency of the government, upon due
20 compensation to the grantee, for the use of said distribution system during the
21 period when these shall be so operated.

22 SEC. 9. *Right of Eminent Domain.* — Subject to the limitations and
23 procedures prescribed by law, the grantee is authorized to exercise the right of
24 eminent domain insofar as it may be reasonably necessary for the efficient
25 maintenance and operation of services. The grantee is authorized to install and
26 maintain its poles, wires, and other facilities over and across public property,
27 including streets, highways, forest reserves, and other similar property of the
28 Government of the Philippines, its branches, or any of its instrumentalities.
29 The grantee may acquire such private property as is actually necessary for the

1 realization of the purposes for which this franchise is granted: *Provided*, That
2 proper condemnation proceedings shall have been instituted and just
3 compensation paid.

4 SEC. 10. *Term of Franchise.* – This franchise shall be for a term of
5 twenty-five (25) years from the date of effectivity of this Act, unless sooner
6 cancelled. This franchise shall be deemed *ipso facto* revoked in the event that
7 the grantee fails to operate continuously for two (2) years.

8 SEC. 11. *Acceptance of the Franchise.* – Acceptance of the terms of
9 this franchise shall be in writing to the Committee on Legislative Franchises of
10 the House of Representatives and the Committee on Public Services of the
11 Philippine Senate, within sixty (60) days after the effectivity of this Act. Upon
12 giving such acceptance, the grantee shall exercise the privileges granted under
13 this Act. Nonacceptance shall render the franchise void.

14 SEC. 12. *Warranty in Favor of the National and Local Governments.* –
15 The grantee shall hold the national, provincial, city, and municipal
16 governments of the Philippines free from all claims, liabilities, demands, or
17 actions arising out of accidents that cause injury to persons and damage to
18 properties, during the construction, installation, operation, and maintenance of
19 the distribution system of the grantee.

20 SEC. 13. *Liability to Damages.* – The grantee shall be liable for any
21 injury to persons and damage to property arising from or caused by accident
22 by reason of any defective construction under this franchise or of any neglect
23 or omission to keep its poles and wires in safe condition.

24 SEC. 14. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of*
25 *Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of,
26 nor assign this franchise or the rights and privileges acquired thereunder to any
27 person, firm, company, corporation, or other commercial or legal entity, nor
28 merge with any other corporation or entity, nor shall transfer the controlling
29 interest of the grantee whether as a whole or in parts, and whether

1 simultaneously or contemporaneously, to any such person, firm, company,
2 corporation or entity without the prior approval of the Congress of the
3 Philippines: *Provided*, That Congress shall be informed of any sale, lease,
4 transfer, grant of usufruct, or assignment of franchise or the rights and
5 privileges acquired thereunder, or of the merger or transfer of the controlling
6 interest of the grantee, within sixty (60) days after the completion of the said
7 transaction: *Provided, further*, That any such sale, transfer or assignment is in
8 accordance with constitutional limitations: *Provided, furthermore*, That
9 failure to report to Congress such change of ownership shall render the
10 franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to
11 which this franchise is sold, transferred or assigned, shall be subject to the
12 same conditions, terms, restrictions and limitations of this Act.

13 SEC. 15. *Reportorial Requirement.* – The grantee shall submit an
14 annual report to the Congress of the Philippines, through the Committee on
15 Legislative Franchises of the House of Representatives and the Committee of
16 Public Services of the Philippine Senate, on its compliance with the terms and
17 conditions of the franchise and on its operations on or before April 30 of the
18 succeeding year.

19 SEC. 16. *Equality Clause.* – Except for taxes and customs duties, any
20 advantage, favor, privilege, exemption, or immunity granted under existing
21 franchises, or may hereinafter be granted shall, upon prior review and approval
22 of Congress, become part of previously granted power distribution franchises
23 and shall be accorded immediately and unconditionally to the grantees of such
24 franchises: *Provided, however*, That the foregoing shall neither apply to nor
25 affect provisions concerning territory covered, term, or the type of service
26 authorized by the franchise: *Provided, further*, That the foregoing shall not
27 apply to the sale, lease, transfer, grant of usufruct, or assignment of legislative
28 franchise with prior congressional approval.

1 SEC. 17. *Applicability of Existing Laws.* – The grantee shall comply
2 with and be subject to the provisions of Commonwealth Act No. 146 or
3 the “Public Service Act”, as amended; Republic Act No. 9136; and Republic
4 Act No. 10531 or the “National Electrification Administration Reform Act of
5 2013”.

6 SEC. 18. *Fine.* – Any grantee who fails to submit the annual report to
7 Congress shall be penalized by a fine of five hundred pesos (P500.00) per
8 working day of noncompliance. The fine shall be collected separately by the
9 ERC distinct from the penalties it imposes for noncompliance of its own
10 reportorial requirements.

11 SEC. 19. *Repealability and Nonexclusivity Clause.* – This franchise
12 shall be subject to amendment, alteration, or repeal by the Congress of the
13 Philippines when the public interest so requires and shall not be interpreted as
14 an exclusive grant of the privileges herein provided for.

15 SEC. 20. *Separability Clause.* – If any of the sections or provisions of
16 this Act is held invalid, all other provisions not affected thereby shall remain
17 valid.

18 SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after
19 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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