



HOUSE OF REPRESENTATIVES

H. No. 3696

BY REPRESENTATIVES DEL MAR, CUENCO, GULLAS, ZUBIRI, SOON-RUIZ AND
ABAYON, PER COMMITTEE REPORT NO. 369

AN ACT FURTHER AMENDING THE FRANCHISE OF VISAYAN ELECTRIC COMPANY, INC., GRANTED UNDER ACT NO. 3499, AS AMENDED, TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITIES OF CEBU, MANDAUE AND TALISAY AND THE MUNICIPALITIES OF MINGLANILLA, NAGA, SAN FERNANDO, CONSOLACION AND LILO-AN, PROVINCE OF CEBU AND RENEWING/EXTENDING THE TERM OF THE FRANCHISE TO ANOTHER TWENTY-FIVE YEARS FROM THE DATE OF APPROVAL OF THIS ACT

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

1 SECTION 1. The franchise granted to Visayan Electric Company,
2 Inc. under Act No. 3499, as amended, is hereby further amended to read as
3 follows:

4 "SECTION 1. NATURE AND SCOPE OF FRANCHISE. -
5 SUBJECT TO THE PROVISIONS OF THE CONSTITUTION AND

1 APPLICABLE LAWS, RULES AND REGULATIONS, THERE IS
2 HEREBY GRANTED TO VISAYAN ELECTRIC COMPANY, INC.
3 (VECO), HEREUNDER REFERRED TO AS THE GRANTEE, ITS
4 SUCCESSORS OR ASSIGNS, A FRANCHISE TO CONSTRUCT,
5 OPERATE AND MAINTAIN IN THE PUBLIC INTEREST AND
6 COMMERCIAL PURPOSES, A DISTRIBUTION SYSTEM FOR THE
7 CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE
8 CITIES OF CEBU, MANDAUE AND TALISAY AND THE
9 MUNICIPALITIES OF MINGLANILLA, NAGA, SAN FERNANDO,
10 CONSOLACION AND LILO-AN, PROVINCE OF CEBU. THE
11 HEREIN GRANTEE HAS PROVIDED THE PROVINCE OF CEBU
12 ELECTRIC LIGHT, HEAT AND POWER SUPPLY SINCE 1928 UNDER
13 ACT No 3449, AS AMENDED."

14 "AS USED IN THIS ACT, DISTRIBUTION SYSTEM REFERS
15 TO THE SYSTEM OF WIRES AND ASSOCIATED FACILITIES
16 INCLUDING SUB-TRANSMISSION LINES BELONGING TO A
17 FRANCHISED DISTRIBUTION UTILITY EXTENDING BETWEEN THE
18 DELIVERY POINT ON THE NATIONAL TRANSMISSION SYSTEM OR
19 GENERATING FACILITY AND THE METERING POINT/FACILITY OF
20 THE END-USER "

21 "SEC. 2. *MANNER OF OPERATIONS OF FACILITIES* - ALL
22 ELECTRIC DISTRIBUTION FACILITIES, LINES AND SYSTEMS FOR
23 ELECTRIC SERVICES OWNED, MAINTAINED, OPERATED OR
24 MANAGED BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNS,

1 SHALL BE OPERATED AND MAINTAINED AT ALL TIMES IN A
2 SUPERIOR MANNER, AND IT SHALL BE THE DUTY OF THE
3 GRANTEE, ITS SUCCESSORS OR ASSIGNS, WHENEVER REQUIRED
4 TO DO SO BY THE ENERGY REGULATORY COMMISSION,
5 HEREAFTER REFERRED TO AS ERC, OR ITS LEGAL SUCCESSOR,
6 OR THE DEPARTMENT OF ENERGY, HEREINAFTER REFERRED TO
7 AS DOE, OR ITS LEGAL SUCCESSOR, OR ANY OTHER
8 GOVERNMENT AGENCY CONCERNED, TO MODIFY, IMPROVE
9 AND CHANGE SUCH FACILITIES OR SYSTEMS IN SUCH MANNER
10 AND TO SUCH EXTENT AS THE PROGRESS IN SCIENCE AND
11 IMPROVEMENTS IN THE ELECTRIC POWER SERVICES MAY
12 RENDER REASONABLE AND PROPER. "

13 "WHENEVER PRACTICABLE AND FOR PURPOSES OF
14 MAINTAINING ORDER, SAFETY AND AESTHETICS ALONG THE
15 HIGHWAYS, ROADS, STREETS, ALLEYS OR RIGHT-OF-WAY, THE
16 GRANTEE MAY ALLOW THE USE OF FREE SPACES IN ITS POLES,
17 FACILITIES OR RIGHT-OF-WAY BY INTERESTED PARTIES UPON
18 REASONABLE COMPENSATION TO THE GRANTEE CONSIDERING
19 COSTS INCURRED TO ACCOMMODATE AND ADMINISTER THE
20 USE OF THE GRANTEE'S FACILITIES BY SUCH PARTIES. THE
21 ERC SHALL DECIDE IN CASE OF DISPUTE OR DISAGREEMENT
22 BETWEEN THE PARTIES."

23 "SEC. 3. *AUTHORITY OF THE ENERGY REGULATORY*
24 *COMMISSION.* - THE GRANTEE SHALL SECURE FROM THE ERC,

1 OR ANY OTHER GOVERNMENT AGENCY WHICH HAS
2 JURISDICTION OVER THE OPERATION OF THE HEREIN GRANTEE,
3 THE NECESSARY CERTIFICATE OF PUBLIC CONVENIENCE AND
4 NECESSITY AND OTHER APPROPRIATE PERMITS AND LICENSES
5 FOR THE CONSTRUCTION AND OPERATION OF ITS ELECTRIC
6 DISTRIBUTION SYSTEM.”

7 “SEC. 4. *INGRESS AND EGRESS.* – FOR THE PURPOSE OF
8 ERECTING AND MAINTAINING POLES AND OTHER SUPPORTS FOR
9 SAID FACILITIES, WIRES OR OTHER CONDUCTORS OR FOR THE
10 PURPOSE OF LAYING AND MAINTAINING SAID FACILITIES,
11 WIRES, CABLES OR OTHER CONDUCTORS, IT SHALL BE LAWFUL
12 FOR THE GRANTEE, ITS SUCCESSORS OR ASSIGNS, WITH THE
13 PRIOR APPROVAL OF THE DEPARTMENT OF PUBLIC WORKS
14 AND HIGHWAYS (DPWH) OR THE LOCAL GOVERNMENT
15 UNITS (LGUS) CONCERNED, AS MAY BE APPROPRIATE, TO
16 MAKE EXCAVATIONS OR LAY CONDUITS IN ANY OF THE PUBLIC
17 PLACES, HIGHWAYS, STREETS, LANES, ALLEYS, AVENUES,
18 SIDEWALKS OR BRIDGES OF SAID PROVINCES AND/OR
19 MUNICIPALITIES: *PROVIDED, HOWEVER,* THAT ANY PUBLIC
20 PLACE, HIGHWAY, STREET, LANE, ALLEY, AVENUE, SIDEWALK
21 OR BRIDGE DISTURBED, ALTERED OR CHANGED BY REASON OF
22 THE ERECTION OF POLES OR OTHER SUPPORTS, OR THE LAYING
23 OF WIRES, OTHER CONDUCTORS OR CONDUITS, SHALL BE
24 IMMEDIATELY REPAIRED AND PROPERLY RESTORED AT THE
25 EXPENSE OF THE GRANTEE, ITS SUCCESSORS OR ASSIGNS, IN

1 ACCORDANCE WITH THE STANDARDS SET BY THE DPWH AND
2 LGUs.”

3 “SEC. 5. *RESPONSIBILITY TO THE PUBLIC.* – THE
4 GRANTEE SHALL SUPPLY ELECTRICITY TO ITS CAPTIVE MARKET
5 IN THE LEAST COST MANNER. IN THE INTEREST OF THE PUBLIC
6 GOOD AND AS FAR AS FEASIBLE AND WHENEVER REQUIRED BY
7 THE ERC, THE GRANTEE SHALL MODIFY, IMPROVE OR CHANGE
8 ITS FACILITIES, POLES, LINES, SYSTEMS AND EQUIPMENT FOR
9 THE PURPOSE OF PROVIDING EFFICIENT AND RELIABLE SERVICE
10 AND REDUCED ELECTRICITY COSTS. THE GRANTEE SHALL
11 CHARGE REASONABLE AND JUST POWER RATES FOR ITS
12 SERVICES TO ALL TYPES OF CONSUMERS WITHIN ITS
13 FRANCHISED AREAS IN ORDER THAT BUSINESS AND INDUSTRIES
14 SHALL BE ABLE TO COMPETE.”

15 “THE GRANTEE SHALL HAVE THE OBLIGATION TO
16 PROVIDE OPEN AND NONDISCRIMINATORY ACCESS TO ITS
17 DISTRIBUTION SYSTEM AND SERVICES FOR ANY END-USER
18 WITHIN ITS FRANCHISE AREA CONSISTENT WITH REPUBLIC ACT
19 NO. 9136. THE GRANTEE SHALL NOT ENGAGE IN ANY
20 ACTIVITY THAT WILL CONSTITUTE AN ABUSE OF MARKET
21 POWER SUCH AS BUT NOT LIMITED TO, UNFAIR TRADE
22 PRACTICES, MONOPOLISTIC SCHEMES AND ANY OTHER
23 ACTIVITIES THAT WILL HINDER COMPETITIVENESS OF
24 BUSINESSES AND INDUSTRIES.”

1 “SEC. 6. *RATES FOR SERVICES.* - THE RETAIL RATES TO
2 ITS CAPTIVE MARKET AND CHARGES FOR THE DISTRIBUTION OF
3 ELECTRIC POWER BY THE GRANTEE TO ITS END-USER SHALL BE
4 REGULATED BY AND SUBJECT TO THE APPROVAL OF THE ERC
5 OR ITS LEGAL SUCCESSOR.”

6 “THE GRANTEE SHALL IDENTIFY AND SEGREGATE IN ITS
7 BILL TO THE END-USERS THE COMPONENTS OF THE RETAIL
8 RATE PURSUANT TO REPUBLIC ACT NO. 9136, UNLESS
9 OTHERWISE AMENDED. SUCH RATES CHARGED BY THE
10 GRANTEE TO THE END-USERS SHALL BE MADE PUBLIC AND
11 TRANSPARENT. THE GRANTEE SHALL IMPLEMENT LIFELINE
12 RATE TO MARGINALIZED END-USERS AS MANDATED UNDER
13 REPUBLIC ACT NO. 9136.”

14 “SEC. 7. *PROMOTION OF CONSUMER INTERESTS* - THE
15 HEREIN GRANTEE SHALL ESTABLISH A CONSUMER DESK THAT
16 WILL HANDLE CONSUMER COMPLAINTS AND ENSURE
17 ADEQUATE PROMOTION OF CONSUMER INTERESTS. THE
18 GRANTEE SHALL ACT WITH DISPATCH ON ALL COMPLAINTS
19 BROUGHT BEFORE IT.”

20 “SEC. 8. *RIGHT OF THE GOVERNMENT.* - A SPECIAL
21 RIGHT IS HEREBY RESERVED TO THE PRESIDENT OF THE
22 PHILIPPINES IN TIMES OF WAR, REBELLION, PUBLIC PERIL,
23 CALAMITY, EMERGENCY, DISASTER, OR DISTURBANCE OF

1 PEACE AND ORDER TO TAKE OVER AND OPERATE THE
2 DISTRIBUTION SYSTEM OF THE GRANTEE OR TO AUTHORIZE
3 THE TEMPORARY USE AND OPERATION THEREOF BY ANY
4 AGENCY/DEPARTMENT OF THE GOVERNMENT UPON DUE
5 COMPENSATION TO THE GRANTEE FOR THE USE OF THE SAID
6 DISTRIBUTION SYSTEM DURING THE PERIOD WHEN THEY SHALL
7 BE SO OPERATED.”

8 “SEC. 9. *RIGHT OF EMINENT DOMAIN.* – SUBJECT TO
9 THE LIMITATIONS AND PROCEDURES PRESCRIBED BY LAW, THE
10 GRANTEE IS AUTHORIZED TO EXERCISE THE RIGHT OF EMINENT
11 DOMAIN INsofar AS IT MAY BE REASONABLY NECESSARY FOR
12 THE EFFICIENT MAINTENANCE AND OPERATION OF SERVICES.
13 THE GRANTEE IS AUTHORIZED TO INSTALL AND MAINTAIN ITS
14 POLES, WIRES AND OTHER FACILITIES OVER AND ACROSS
15 PUBLIC PROPERTY, INCLUDING STREETS, HIGHWAYS, FOREST
16 RESERVES AND OTHER SIMILAR PROPERTY OF THE
17 GOVERNMENT OF THE PHILIPPINES, ITS BRANCHES OR ANY OF
18 ITS INSTRUMENTALITIES. THE GRANTEE MAY ACQUIRE SUCH
19 PRIVATE PROPERTY AS IS ACTUALLY NECESSARY FOR THE
20 REALIZATION OF THE PURPOSES FOR WHICH THIS FRANCHISE IS
21 GRANTED: *PROVIDED,* THAT PROPER CONDEMNATION
22 PROCEEDINGS SHALL HAVE BEEN INSTITUTED AND JUST
23 COMPENSATION PAID.”

1 “SEC. 10. *ACCEPTANCE AND COMPLIANCE.* -

2 ACCEPTANCE OF THIS FRANCHISE SHALL BE GIVEN IN WRITING
3 WITHIN SIXTY (60) DAYS AFTER THE EFFECTIVITY OF THIS
4 ACT.”

5 “SEC. 11. *WARRANTY IN FAVOR OF NATIONAL AND*
6 *LOCAL GOVERNMENTS.* - THE GRANTEE SHALL HOLD THE
7 NATIONAL, PROVINCIAL AND MUNICIPAL GOVERNMENTS OF
8 THE PHILIPPINES HARMLESS FROM ALL CLAIMS, ACCOUNTS,
9 DEMANDS OR ACTIONS ARISING OUT OF ACCIDENTS OR
10 INJURIES, WHETHER TO PROPERTY OR PERSONS, CAUSED BY
11 THE CONSTRUCTION, INSTALLATION, OPERATION AND
12 MAINTENANCE OF THE DISTRIBUTION SYSTEM OF THE
13 GRANTEE.”

14 “SEC. 12. *LIABILITY FOR DAMAGES.* - THE GRANTEE
15 SHALL BE LIABLE FOR ANY INJURY AND DAMAGE ARISING
16 FROM OR CAUSED BY ACCIDENT TO PERSONS AND PROPERTY
17 BY REASON OF ANY DEFECTIVE CONSTRUCTION UNDER THIS
18 FRANCHISE OR OF ANY NEGLIGENCE OR OMISSION TO KEEP ITS
19 POLES AND WIRES IN A SAFE CONDITION.”

20 “SEC. 13. *SALE, LEASE, TRANSFER, USUFRUCT, ETC.* -
21 THE GRANTEE SHALL NOT LEASE, TRANSFER, GRANT THE
22 USUFRUCT OF OR SELL THIS FRANCHISE OR THE RIGHTS AND
23 PRIVILEGES ACQUIRED THEREUNDER TO ANY PERSON, FIRM,

1 COMPANY, CORPORATION OR OTHER COMMERCIAL OR LEGAL
2 ENTITY, NOR MERGE WITH ANY OTHER CORPORATION OR
3 ENTITY, NOR SHALL THE CONTROLLING INTEREST OF THE
4 GRANTEE BE TRANSFERRED WHETHER IN WHOLE OR IN PART,
5 AND WHETHER SIMULTANEOUSLY OR CONTEMPORANEOUSLY,
6 TO ANY SUCH PERSON, FIRM, COMPANY, CORPORATION OR
7 ENTITY WITHOUT THE PRIOR APPROVAL OF THE CONGRESS OF
8 THE PHILIPPINES. ANY PERSON OR ENTITY TO WHICH THIS
9 FRANCHISE IS SOLD, TRANSFERRED OR ASSIGNED, SHALL BE
10 SUBJECT TO THE SAME CONDITIONS, TERMS, RESTRICTIONS
11 AND LIMITATIONS OF THIS ACT.”

12 “SEC. 14. *EQUALITY CLAUSE.* – IN THE EVENT THAT ANY
13 COMPETING INDIVIDUAL, PARTNERSHIP OR CORPORATION
14 SHALL RECEIVE A SIMILAR PERMIT OR FRANCHISE WITH TERMS
15 AND/OR PROVISIONS MORE FAVORABLE THAN THOSE HEREIN
16 GRANTED OR WHICH TEND TO PLACE THE HEREIN GRANTEE AT
17 ANY DISADVANTAGE, SUCH TERMS AND/OR PROVISIONS SHALL
18 BE DEEMED PART HEREOF AND SHALL OPERATE EQUALLY IN
19 FAVOR OF THE HEREIN GRANTEE: *PROVIDED,* THAT ANY
20 TERM AND/OR PROVISION HEREIN GRANTED WHICH ARE NOT
21 CONTAINED IN OTHER FRANCHISES THAT MAY HEREAFTER BE
22 GRANTED SHALL LIKEWISE BE ENJOYED BY THE FUTURE
23 GRANTEES: *PROVIDED, HOWEVER,* THAT THE FOREGOING
24 SHALL NEITHER APPLY TO NOR AFFECT THE PROVISIONS

1 CONCERNING TERRITORY COVERED BY THE FRANCHISE AND
2 THE LIFE SPAN OF THE FRANCHISE.”

3 “SEC. 15. *SEPARABILITY CLAUSE.* – IF, FOR ANY REASON,
4 ANY OF THE SECTIONS OR PROVISIONS OF THIS ACT IS
5 DECLARED UNCONSTITUTIONAL OR INVALID, THE OTHER PARTS
6 OR PROVISIONS HEREOF WHICH ARE NOT AFFECTED THEREBY
7 SHALL CONTINUE TO BE IN FULL FORCE AND EFFECT.”

8 “SEC. 16. *APPLICABILITY CLAUSE.* – THE GRANTEE
9 SHALL COMPLY WITH AND BE SUBJECT TO THE PROVISIONS OF
10 COMMONWEALTH ACT NO. 146, AS AMENDED, OTHERWISE
11 KNOWN AS THE ‘PUBLIC SERVICES ACT’ AND REPUBLIC ACT
12 NO. 9136, OTHERWISE KNOWN AS THE ‘ELECTRIC POWER
13 INDUSTRY REFORM ACT OF 2001.’”

14 “SEC. 17. *REPEALABILITY AND NONEXCLUSIVITY*
15 *CLAUSE.* – THIS FRANCHISE SHALL BE SUBJECT TO
16 AMENDMENT, ALTERATION OR REPEAL BY THE CONGRESS OF
17 THE PHILIPPINES WHEN THE PUBLIC INTEREST SO REQUIRES
18 AND SHALL NOT BE INTERPRETED AS AN EXCLUSIVE GRANT OF
19 THE PRIVILEGES HEREIN PROVIDED FOR.”

20 “SEC. 18. *REPORTORIAL REQUIREMENT.* – THE GRANTEE
21 SHALL SUBMIT AN ANNUAL REPORT OF FINANCES AND
22 OPERATIONS TO THE CONGRESS OF THE PHILIPPINES.”

1 SEC. 2. *Renewal/Extension of the Term of Franchise.* – This
2 franchise shall be for a term of twenty-five (25) years from the date of
3 effectivity of this Act. This franchise shall be deemed *ipso facto* revoked
4 in the event that the grantee fails to operate continuously for two years.

5 SEC. 3. *Repealing Clause.* – All laws, decrees, orders, resolutions,
6 instructions and rules and regulations or parts thereof, which are inconsistent
7 with this Act, are hereby deemed repealed or modified accordingly.

8 SEC. 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
9 from the date of its publication, upon the initiative of the grantee, in at least
10 two newspapers of general circulation in the Philippines.

Approved,

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