



HOUSE OF REPRESENTATIVES

H. No. 6244

BY REPRESENTATIVES MACAPAGAL-ARROYO, VILLAFUERTE AND BIRON, PER
COMMITTEE REPORT NO. 1945

AN ACT FURTHER AMENDING THE FRANCHISE OF SAN FERNANDO ELECTRIC LIGHT AND POWER COMPANY, INC. GRANTED UNDER REPUBLIC ACT NO. 3207, AS AMENDED, TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE CITY OF SAN FERNANDO, THE MUNICIPALITY OF FLORIDABLANCA AND BARANGAYS TALANG AND LIGAYA IN THE MUNICIPALITY OF GUAGUA, ALL IN THE PROVINCE OF PAMPANGA, AND RENEWING/EXTENDING THE TERM OF THE FRANCHISE TO ANOTHER TWENTY-FIVE (25) 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. Republic Act No. 3207, as amended, granting a franchise
2 to San Fernando Electric Light and Power Company, Inc. is hereby further
3 amended to read as follows:

4 [SECTION 1. Subject to the terms and conditions
5 established in Act Numbered Thirty-six hundred and thirty-six,
6 as amended by Commonwealth Act Numbered One hundred and
7 thirty-two, and to the provisions of the Constitution, there is
8 granted to the San Fernando Electric Light and Power Co.,

1 Inc., in the Municipality of San Fernando, Province of
2 Pampanga, for a period of fifty years from the approval of this
3 Act, the right, privilege and authority to construct, maintain and
4 operate an electric light, heat and power system for the purpose
5 of generating and distributing electric light, heat and/or power
6 for sale within the said municipality.

7 SEC. 2. In the event that the grantee shall purchase and
8 secure from the National Power Corporation electric heat and
9 power, the National Power Corporation is hereby authorized to
10 negotiate and transact for the benefit and in behalf of the public
11 consumers with reference to rates.

12 SEC. 3. It is expressly provided that in the event the
13 Government should desire to maintain and operate for itself the
14 system and enterprise herein authorized, the grantee shall
15 surrender its franchise and will turn over to the Government all
16 serviceable equipment therein, at cost, less reasonable
17 depreciation.

18 SEC. 4. *This Act shall take effect upon its approval.]*

19 **“SECTION 1. NATURE AND SCOPE OF FRANCHISE. –**
20 **SUBJECT TO THE PROVISIONS OF THE CONSTITUTION AND**
21 **APPLICABLE LAWS, RULES AND REGULATIONS, THERE IS**
22 **HEREBY GRANTED TO SAN FERNANDO ELECTRIC LIGHT AND**
23 **POWER COMPANY, INC., HEREUNDER REFERRED TO AS THE**
24 **GRANTEE, ITS SUCCESSORS OR ASSIGNS, A FRANCHISE TO**
25 **CONSTRUCT, OPERATE AND MAINTAIN IN THE PUBLIC**
26 **INTEREST AND FOR COMMERCIAL PURPOSES, A DISTRIBUTION**
27 **SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE**
28 **END-USERS IN THE CITY OF SAN FERNANDO, THE**
29 **MUNICIPALITY OF FLORIDABLANCA AND BARANGAYS TALANG**

1 AND LIGAYA IN THE MUNICIPALITY OF GUAGUA, ALL IN THE
2 PROVINCE OF PAMPANGA.

3 “AS USED IN THIS ACT, DISTRIBUTION SYSTEM REFERS
4 TO THE SYSTEM OF WIRES AND ASSOCIATED FACILITIES
5 INCLUDING SUB-TRANSMISSION LINES BELONGING TO A
6 FRANCHISED DISTRIBUTION UTILITY EXTENDING BETWEEN
7 THE DELIVERY POINT ON THE NATIONAL TRANSMISSION
8 SYSTEM OR GENERATING FACILITY AND THE METERING
9 POINT/FACILITY OF THE END-USER.”

10 “*SEC. 2. MANNER OF OPERATIONS OF FACILITIES.* –
11 ALL ELECTRIC DISTRIBUTION FACILITIES, LINES AND SYSTEMS
12 FOR ELECTRIC SERVICES OWNED, MAINTAINED, OPERATED OR
13 MANAGED BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNS,
14 SHALL BE OPERATED AND MAINTAINED AT ALL TIMES IN A
15 SUPERIOR MANNER, AND IT SHALL BE THE DUTY OF THE
16 GRANTEE, ITS SUCCESSORS OR ASSIGNS, WHENEVER REQUIRED
17 TO DO SO BY THE ENERGY REGULATORY COMMISSION,
18 HEREAFTER REFERRED TO AS THE ERC, OR ITS LEGAL
19 SUCCESSOR, OR THE DEPARTMENT OF ENERGY, HEREINAFTER
20 REFERRED TO AS THE DOE, OR ITS LEGAL SUCCESSOR, OR ANY
21 OTHER GOVERNMENT AGENCY CONCERNED, TO MODIFY,
22 IMPROVE AND CHANGE SUCH FACILITIES OR SYSTEMS IN SUCH
23 MANNER AND TO SUCH EXTENT AS THE PROGRESS IN SCIENCE
24 AND IMPROVEMENTS IN THE ELECTRIC POWER SERVICES MAY
25 RENDER REASONABLE AND PROPER.

26 “WHENEVER PRACTICABLE AND FOR PURPOSES OF
27 MAINTANING ORDER, SAFETY AND AESTHETICS ALONG THE
28 HIGHWAYS, ROADS, STREETS, ALLEYS OR RIGHT-OF-WAY, THE
29 GRANTEE MAY ALLOW THE USE OF FREE SPACES IN ITS POLES,
30 FACILITIES OR RIGHT-OF-WAY BY INTERESTED PARTIES UPON
31 REASONABLE COMPENSATION TO THE GRANTEE CONSIDERING
32 COSTS INCURRED TO ACCOMMODATE AND ADMINISTER THE

1 USE OF THE GRANTEE'S FACILITIES BY SUCH PARTIES. THE
2 ERC SHALL DECIDE IN CASE OF DISPUTE OR DISAGREEMENT
3 BETWEEN THE PARTIES."

4 "SEC. 3. *AUTHORITY OF THE ENERGY REGULATORY*
5 *COMMISSION (ERC)*. – THE GRANTEE SHALL SECURE FROM
6 THE ERC, OR ANY OTHER GOVERNMENT AGENCY WHICH HAS
7 JURISDICTION OVER THE OPERATION OF THE HEREIN
8 GRANTEE, THE NECESSARY CERTIFICATE OF PUBLIC
9 CONVENIENCE AND NECESSITY AND OTHER APPROPRIATE
10 PERMITS AND LICENSES FOR THE CONSTRUCTION AND
11 OPERATION OF ITS ELECTRIC DISTRIBUTION SYSTEM."

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

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

13 **“THE GRANTEE SHALL HAVE THE OBLIGATION TO**
14 **PROVIDE OPEN AND NON-DISCRIMINATORY ACCESS TO ITS**
15 **DISTRIBUTION SYSTEM AND SERVICES FOR ANY END-USER**
16 **WITHIN ITS FRANCHISE AREA CONSISTENT WITH REPUBLIC**
17 **ACT NO. 9136, OTHERWISE KNOWN AS ‘ELECTRIC POWER**
18 **INDUSTRY REFORM ACT OF 2001’.** THE GRANTEE SHALL NOT
19 ENGAGE IN ANY ACTIVITY THAT WILL CONSTITUTE AN ABUSE
20 OF MARKET POWER SUCH AS, BUT NOT LIMITED TO, UNFAIR
21 TRADE PRACTICES, MONOPOLISTIC SCHEMES AND ANY OTHER
22 ACTIVITIES THAT WILL HINDER COMPETITIVENESS OF
23 BUSINESSES AND INDUSTRIES.”

24 **“SEC. 6. RATES FOR SERVICES. – THE RETAIL RATES TO**
25 **ITS CAPTIVE MARKET AND CHARGES FOR THE DISTRIBUTION**
26 **OF ELECTRIC POWER BY THE GRANTEE TO ITS END-USER**
27 **SHALL BE REGULATED BY AND SUBJECT TO THE APPROVAL OF**
28 **THE ERC OR ITS LEGAL SUCCESSOR.**

29 **“THE GRANTEE SHALL IDENTIFY AND SEGREGATE IN ITS**
30 **ELECTRICITY BILL TO THE END-USERS THE COMPONENTS OF**
31 **THE RETAIL RATE PURSUANT TO REPUBLIC ACT NO. 9136,**
32 **UNLESS OTHERWISE AMENDED. SUCH RATES CHARGED BY THE**

1 GRANTEE TO THE END-USERS SHALL BE MADE PUBLIC AND
2 TRANSPARENT. THE GRANTEE SHALL IMPLEMENT LIFELINE
3 RATE TO MARGINALIZED END-USERS AS MANDATED UNDER
4 REPUBLIC ACT NO. 9136.”

5 “SEC. 7. *PROMOTION OF CONSUMERS INTERESTS.* – THE
6 HEREIN GRANTEE SHALL ESTABLISH A CONSUMER DESK THAT
7 WILL HANDLE CONSUMER COMPLAINTS AND ENSURE
8 ADEQUATE PROMOTION OF CONSUMER INTERESTS. THE
9 GRANTEE SHALL ACT WITH DISPATCH ON ALL COMPLAINTS
10 BROUGHT BEFORE IT.”

11 “SEC. 8. *RIGHT OF THE GOVERNMENT.* – A SPECIAL
12 RIGHT IS HEREBY RESERVED TO THE PRESIDENT OF THE
13 PHILIPPINES IN TIMES OF WAR, REBELLION, PUBLIC PERIL,
14 CALAMITY, EMERGENCY, DISASTER, OR DISTURBANCE OF
15 PEACE AND ORDER TO TAKE OVER AND OPERATE THE
16 DISTRIBUTION SYSTEM OF THE GRANTEE OR TO AUTHORIZE
17 THE TEMPORARY USE AND OPERATION THEREOF BY ANY
18 AGENCY/DEPARTMENT OF THE GOVERNMENT UPON DUE
19 COMPENSATION TO THE GRANTEE FOR THE USE OF THE SAID
20 DISTRIBUTION SYSTEM DURING THE PERIOD WHEN THEY
21 SHALL BE SO OPERATED.”

22 “SEC. 9. *TAX PROVISION.* – IN CONSIDERATION OF THE
23 FRANCHISE AND RIGHTS HEREBY GRANTED, THE GRANTEE, ITS
24 SUCCESSORS OR ASSIGNS, SHALL PAY A FRANCHISE TAX,
25 WHICH MAY BE AMENDED FROM TIME TO TIME AND IS
26 CURRENTLY AT THE RATE OF AND EQUIVALENT TO FIFTY
27 PERCENT (50%) OF ONE PERCENT (1%) OF ALL REVENUES
28 DERIVED BY THE GRANTEE FROM ITS DISTRIBUTION
29 WHEELING SERVICES AND CAPTIVE MARKET SUPPLY,
30 EXCLUDING GENERATION CHARGE, TRANSMISSION CHARGE
31 AND SYSTEM LOSS CHARGE: *PROVIDED*, THAT NOTHING
32 HEREIN SHALL BE CONSTRUED AS REPEALING ANY TAX

1 EXEMPTIONS, INCENTIVES OR PRIVILEGES GRANTED UNDER
2 ANY RELEVANT LAW: *PROVIDED, FURTHER*, THAT THE
3 GRANTEE, ITS SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO
4 PAY REAL PROPERTY TAXES ONLY ON THEIR REAL ESTATE AND
5 BUILDINGS, EXCLUSIVE OF THIS FRANCHISE, AS OTHER
6 CORPORATIONS ARE NOW OR HEREAFTER MAY BE REQUIRED
7 BY LAW TO PAY.

8 "THE GRANTEE SHALL FILE THE RETURN WITH THE
9 CITY WHERE ITS PRINCIPAL PLACE OF OFFICE IS LOCATED AND
10 PAY THE TAXES DUE THEREON TO THE COMMISSIONER OF
11 INTERNAL REVENUE OR HIS DULY AUTHORIZED
12 REPRESENTATIVE IN ACCORDANCE WITH THE NATIONAL
13 INTERNAL REVENUE CODE (NIRC) AND THE RETURN SHALL
14 BE SUBJECT TO AUDIT BY THE BUREAU OF INTERNAL
15 REVENUE."

16 "SEC. 10. *RIGHT OF EMINENT DOMAIN*. - SUBJECT TO
17 THE LIMITATIONS AND PROCEDURES PRESCRIBED BY LAW, THE
18 GRANTEE IS AUTHORIZED TO EXERCISE THE RIGHT OF
19 EMINENT DOMAIN INSOFAR AS IT MAY BE REASONABLY
20 NECESSARY FOR THE EFFICIENT MAINTENANCE AND
21 OPERATION OF SERVICES. THE GRANTEE IS AUTHORIZED TO
22 INSTALL AND MAINTAIN ITS POLES, WIRES AND OTHER
23 FACILITIES OVER AND ACROSS PUBLIC PROPERTY, INCLUDING
24 STREETS, HIGHWAYS, FOREST RESERVES AND OTHER SIMILAR
25 PROPERTY OF THE GOVERNMENT OF THE PHILIPPINES, ITS
26 BRANCHES OR ANY OF ITS INSTRUMENTALITIES. THE GRANTEE
27 MAY ACQUIRE SUCH PRIVATE PROPERTY AS IS ACTUALLY
28 NECESSARY FOR THE REALIZATION OF THE PURPOSES FOR
29 WHICH THIS FRANCHISE IS GRANTED: *PROVIDED*, THAT
30 PROPER CONDEMNATION PROCEEDINGS SHALL HAVE BEEN
31 INSTITUTED AND JUST COMPENSATION PAID."

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

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

16 “SEC. 13. *SALE, LEASE, TRANSFER, USUFRUCT, ETC.* –
17 THE GRANTEE SHALL NOT LEASE, TRANSFER, GRANT THE
18 USUFRUCT OF OR SELL THIS FRANCHISE OR THE RIGHTS AND
19 PRIVILEGES ACQUIRED THEREUNDER TO ANY PERSON, FIRM,
20 COMPANY, CORPORATION OR OTHER COMMERCIAL OR LEGAL
21 ENTITY, NOR MERGE WITH ANY OTHER CORPORATION OR
22 ENTITY, NOR SHALL THE CONTROLLING INTEREST OF THE
23 GRANTEE BE TRANSFERRED WHETHER IN WHOLE OR IN PART,
24 AND WHETHER SIMULTANEOUSLY OR CONTEMPORANEOUSLY,
25 TO ANY SUCH PERSON, FIRM, COMPANY, CORPORATION OR
26 ENTITY WITHOUT THE PRIOR APPROVAL OF THE CONGRESS OF
27 THE PHILIPPINES. ANY PERSON OR ENTITY TO WHICH THIS
28 FRANCHISE IS SOLD, TRANSFERRED OR ASSIGNED, SHALL BE
29 SUBJECT TO THE SAME CONDITIONS, TERMS, RESTRICTIONS
30 AND LIMITATIONS OF THIS ACT.”

31 “SEC. 14. *EQUALITY CLAUSE.* – IN THE EVENT THAT
32 ANY COMPETING INDIVIDUAL, PARTNERSHIP OR CORPORATION

1 SHALL RECEIVE A SIMILAR PERMIT OR FRANCHISE WITH
2 TERMS AND/OR PROVISIONS MORE FAVORABLE THAN THOSE
3 HEREIN GRANTED OR WHICH TEND TO PLACE THE HEREIN
4 GRANTEE AT ANY DISADVANTAGE, SUCH TERMS AND/OR
5 PROVISIONS SHALL BE DEEMED PART HEREOF AND SHALL
6 OPERATE EQUALLY IN FAVOR OF THE HEREIN GRANTEE:
7 *PROVIDED*, THAT ANY TERMS AND/OR PROVISIONS HEREIN
8 GRANTED WHICH ARE NOT CONTAINED IN OTHER FRANCHISES
9 THAT MAY HEREAFTER BE GRANTED SHALL LIKEWISE BE
10 ENJOYED BY THE FUTURE GRANTEES: *PROVIDED, HOWEVER*,
11 THAT THE FOREGOING SHALL NEITHER APPLY TO NOR AFFECT
12 THE PROVISIONS CONCERNING TERRITORY COVERED BY THE
13 FRANCHISE AND THE LIFE SPAN OF THE FRANCHISE.”

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

20 “SEC. 16. *APPLICABILITY CLAUSE*. – THE GRANTEE
21 SHALL COMPLY WITH AND BE SUBJECT TO THE PROVISIONS OF
22 COMMONWEALTH ACT NO. 146, AS AMENDED, OTHERWISE
23 KNOWN AS THE ‘PUBLIC SERVICES ACT’ AND REPUBLIC ACT
24 NO. 9136, OTHERWISE KNOWN AS THE ‘ELECTRIC POWER
25 INDUSTRY REFORM ACT OF 2001’.”

26 “SEC. 17. *REPEALABILITY AND NONEXCLUSIVITY*
27 *CLAUSE*. – THIS FRANCHISE SHALL BE SUBJECT TO
28 AMENDMENT, ALTERATION OR REPEAL BY THE CONGRESS OF
29 THE PHILIPPINES WHEN THE PUBLIC INTEREST SO REQUIRES
30 AND SHALL NOT BE INTERPRETED AS AN EXCLUSIVE GRANT OF
31 THE PRIVILEGES HEREIN PROVIDED FOR.”

1 **“SEC. 18. REPORTORIAL REQUIREMENT. – THE**
2 **GRANTEE SHALL SUBMIT AN ANNUAL REPORT OF FINANCES**
3 **AND OPERATIONS TO THE CONGRESS OF THE PHILIPPINES.”**

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

8 SEC. 3. *Acceptance and Compliance.* – Acceptance of the amendment
9 and extension/renewal of the franchise shall be given in writing within sixty
10 (60) days from the date of effectivity of this Act.

11 SEC. 4. *Repealing Clause.* – All laws, decrees, orders, resolutions,
12 instructions and rules and regulations or parts thereof, which are inconsistent
13 with this Act, are hereby deemed repealed or modified accordingly.

14 SEC. 5. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
15 after its publication in at least two (2) newspapers of general circulation.

Approved,

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