



HOUSE OF REPRESENTATIVES

H. No. 6724

BY REPRESENTATIVES MANDANAS, TEODORO AND MENDOZA (M.)

AN ACT GRANTING THE FIRST BAY POWER CORPORATION (FBPC) FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END-USERS IN THE MUNICIPALITY OF BAUAN, PROVINCE OF BATANGAS

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 regulations, there
3 is hereby granted to First Bay Power Corporation (FBPC), hereunder referred
4 to as the grantee, its successors or assigns, a franchise to construct, install,
5 establish, operate and maintain for commercial purposes and in the public
6 interest, a distribution system for the conveyance of electric power to the
7 end-users in the Municipality of Bauan, Province of Batangas.

8 As used in this Act, a distribution system refers to the systems of wires
9 and associated facilities including sub-transmission lines belonging to a
10 franchised distribution utility extending between the delivery point on the

1 national transmission system or generating facility and the metering
2 point/facility of the end-user.

3 SEC. 2. *Manner of Operation of Facilities.* – All electric distribution
4 facilities, lines and systems for electric services owned, maintained, operated
5 or managed by the grantee, its successors or assigns, shall be operated and
6 maintained at all times in a superior manner, and it shall be the duty of the
7 grantee, its successors or assigns, whenever required to do so by the Energy
8 Regulatory Commission, hereinafter referred to as the ERC, or its legal
9 successor, or the Department of Energy, hereinafter referred to as the DOE, or
10 its legal successor, or any other government agency concerned, to modify,
11 improve and change such facilities or systems in such a manner and to such
12 extent as the progress in science and improvements in the electric power
13 services may render reasonable and proper.

14 Whenever practicable and for purposes of maintaining order, safety and
15 aesthetics along highways, roads, streets, alleys or right-of-way, the grantee
16 may allow the use of free spaces in its poles, facilities or right-of-way by
17 interested parties upon reasonable compensation to the grantee considering
18 cost incurred to accommodate and administer the use of the grantee's facilities
19 by such parties. The ERC shall decide in case of dispute or disagreement
20 between parties.

21 SEC. 3. *Authority of the ERC/DOE.* – The grantee shall secure from
22 the ERC/DOE or any other government agency which has jurisdiction over the
23 operation of the herein grantee the necessary certificate of public convenience
24 and necessity and other appropriate permits and licenses for the construction
25 and operation of its electric distribution system.

26 SEC. 4. *Ingress and Egress.* – For the purpose of erecting and
27 maintaining poles and pipes and other supports for said facilities, wires or
28 other conductors for the purpose of laying and maintaining said facilities,

1 wires, cables, pipes or other conductors, it shall be lawful for the grantee, its
2 successors or assigns, with the prior approval of the Department of Public
3 Works and Highways (DPWH) or the local government units concerned, as
4 may be appropriate, to make excavations or lay conduits in any of the public
5 places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of the
6 said province, cities and/or municipalities: *Provided, however,* That any
7 public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed,
8 altered or changed by reason of erection of poles or other supports or the
9 underground laying of wires, other conductors or conduits shall be repaired
10 and replaced in workmanlike manner at the expense of the grantee, its
11 successors or assigns, in accordance with the standards set by the DPWH or
12 the local government units concerned. Should the grantee, its successors or
13 assigns, after the ten (10) days notice from the said authority, fail, refuse or
14 neglect to repair or replace any part of the public place, road, highway, street,
15 lane, alley, avenue, sidewalk or bridge altered, changed or disturbed by the
16 said grantee, its successors or assigns, then the DPWH or the local government
17 units concerned shall have the right to have the same repaired and placed in
18 good order and condition at double expense to be charged against the grantee,
19 its successors or assigns.

20 SEC. 5. *Responsibility to the Public.* – The grantee shall supply
21 electricity to its captive market in the least costly manner. In the interest of the
22 public good and as far as feasible and whenever required by the ERC, the
23 grantee shall modify, improve or change its facilities, poles, lines systems and
24 equipment for the purpose of providing efficient and reliable service and
25 reduced electricity costs. The grantee shall charge reasonable and just power
26 rates for its services to all types of consumers with its franchised areas in order
27 that business and industries shall be able to compete.

1 The grantee shall have the obligation to provide open and
2 nondiscriminatory access to its distribution system and services for any
3 end-user within its franchise area consistent with Republic Act No. 9136,
4 otherwise known as the “Electric Power Industry Reform Act of 2001”. The
5 grantee shall not engage in any activity that will constitute an abuse of market
6 power such as, but not limited to, unfair trade practices, monopolistic schemes
7 and any other activities that will hinder competitiveness of business and
8 industries.

9 SEC. 6. *Rates for Services.* – The retail rates to its captive market and
10 charges for the distribution of electric power by the grantee to its end-user shall
11 be regulated by and subject to the approval of the ERC or its legal successor.

12 The grantee shall identify and segregate in its electricity bill to the
13 end-users the components of the retail rate pursuant to Republic Act No. 9136,
14 unless otherwise amended. Such rates charged by the grantee to the end-users
15 shall be made public and transparent. The grantee shall implement lifeline rate
16 to marginalized end-users as mandated under Republic Act No. 9136.

17 SEC. 7. *Promotion of Consumer Interests.* – The herein grantee shall
18 establish a consumer desk that will handle consumer complaints and ensure
19 adequate promotion of consumer interests. The grantee shall act with dispatch
20 on all complaints brought before it.

21 SEC. 8. *Right of the Government.* – A special right is hereby reserved
22 to the President of the Philippines, in times of war, rebellion, public peril,
23 calamity, emergency, disaster or disturbance of peace and order, to temporarily
24 take over and operate the stations or facilities of the grantee; to temporarily
25 suspend the operation of any station or facility in the interest of public safety,
26 security and public welfare; or to authorize the temporary use and operation
27 thereof by any agency of the government, upon due compensation to the

1 grantee, for the use of said stations or facilities during the period when they
2 shall be so operated.

3 The grantee shall file the return with the city or municipality where its
4 principal place of office is located and pay the taxes due thereon to the
5 Commissioner of Internal Revenue or his duly authorized representative in
6 accordance with the National Internal Revenue Code (NIRC) and the return
7 shall be subject to audit by the Bureau of Internal Revenue.

8 *SEC. 9. Right of Eminent Domain.* -- Subject to the limitations and
9 procedures prescribed by law, the grantee is authorized to exercise the right of
10 eminent domain insofar as it may be reasonably necessary for the efficient
11 maintenance and operation of services. The grantee is authorized to install and
12 maintain its poles, wires and other facilities over and across public property,
13 including streets, highways, forest reserves and other similar property of the
14 Government of the Philippines, its branches or any of its instrumentalities. The
15 grantee may acquire such private property as is actually necessary for the
16 realization of the purposes for which this franchise is granted: *Provided*, That
17 proper condemnation proceedings shall have been instituted and just
18 compensation paid.

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

21 *SEC. 11. Warranty in Favor of National and Local Governments.* --
22 The grantee shall hold the national, provincial, city and municipal governments
23 of the Philippines free from all claims, accounts, demands or actions arising
24 out of accidents or injuries, whether to property or to persons, caused by the
25 construction, installation, operation and maintenance of the distribution system
26 of the grantee.

1 SEC. 12. *Liability to Damages.* – The grantee shall be liable for any
2 injury and damage arising from or caused by accident to persons and property
3 by reason of any defective construction under this franchise or of any neglect
4 or omission to keep its poles and wires in safe condition.

5 SEC. 13. *Sale, Lease, Transfer, Usufruct, Etc.* – The grantee shall not
6 lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights
7 and privileges acquired thereunder to any person, firm, company, corporation
8 or other commercial or legal entity, nor merge with any other corporation or
9 entity, nor shall the controlling interest of the grantee be transferred, whether
10 as a whole or in parts and whether simultaneously or contemporaneously, to
11 any such person, firm, company, corporation or entity without the prior
12 approval of the Congress of the Philippines: *Provided*, That Congress shall be
13 informed of any lease, transfer, granting the usufruct of, sale or assignment of
14 franchise or the rights and privileges acquired within sixty (60) days after the
15 completion of said transaction: *Provided, further*, That any such transfer, sale
16 or assignment is in accordance with the constitutional limitations: *Provided*,
17 *furthermore*, That failure to report to Congress such change of ownership shall
18 render the franchise *ipso facto* revoked: *Provided, finally*, That any person or
19 entity to which this franchise is sold, transferred or assigned shall be subject to
20 the same conditions, terms, restrictions and limitations of this Act.

21 SEC. 14. *Equality Clause.* – Any advantage, favor, privilege,
22 exemption or immunity granted under existing franchises, or may hereafter be
23 granted, shall, upon prior review and approval of Congress, become part of
24 previously granted power distribution franchises and shall be accorded
25 immediately and unconditionally to the grantees of such franchises: *Provided*,
26 *however*, That the foregoing shall neither apply to nor affect provisions
27 concerning territory covered by the franchise, the life span of the franchise, or

1 the type of service authorized by the franchise: *Provided, further*, That the
2 foregoing shall not apply to the sale, lease, transfer, grant of usufruct or
3 assignment of legislative franchises with prior congressional approval.

4 SEC. 15. *Term of Franchise.* – This franchise shall be for a term of
5 twenty-five (25) years from the date of the effectivity of this Act. This
6 franchise shall be deemed *ipso facto* revoked in the event that the grantee fails
7 to operate continuously for two (2) years.

8 SEC. 16. *Applicability Clause.* – The grantee shall comply with and be
9 subject to the provisions of Commonwealth Act No. 146, as amended,
10 otherwise known as the “Public Service Act” and Republic Act No. 9136,
11 otherwise known as the “Electric Power Industry Reform Act of 2001”.

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

16 SEC. 18. *Dspersal of Ownership.* – In accordance with the
17 constitutional provision to encourage public participation in public utilities, the
18 grantee shall offer to Filipino citizens at least thirty *per centum* (30%) of its
19 outstanding capital stock or a higher percentage that may hereafter be provided
20 by law in any securities exchange in the Philippines within five (5) years from
21 the commencement of its operations. Noncompliance therewith shall render
22 the franchise *ipso facto* revoked.

23 SEC. 19. *Reportorial Requirement.* – The grantee shall submit an
24 annual report to the Congress of the Philippines, through the Committee on
25 Legislative Franchises of the House of Representatives and the Committee on
26 Public Services of the Senate, on its compliance with the terms and conditions
27 of the franchise and on its operations on or before April 30 of the succeeding
28 year.

1 SEC. 20. *Penalty Clause.* – Any grantee who fails to submit the
2 annual report to Congress will be fined Five hundred pesos (P500.00) per
3 working day of noncompliance. The fine will be collected by the ERC from
4 the said delinquent franchise grantee separate from the reportorial penalties
5 imposed by the ERC. The collected funds shall accrue to the monitoring fund
6 of the ERC in line with its supervisory and regulatory functions. The
7 reportorial compliance certificate issued by Congress shall be required before
8 any application for permit or certificate is accepted by the ERC.

9 SEC. 21. *Separability Clause.* – If any of the sections or provisions of
10 this Act is held invalid, all the other provisions not affected thereby shall
11 remain valid.

12 SEC. 22. *Repealing Clause.* – Acts 484 and 3648, as amended,
13 Republic Act No. 3444 and all other laws, decrees, orders, resolutions,
14 instructions and rules and regulations or parts thereof which are inconsistent
15 herewith are hereby deemed repealed or modified accordingly.

16 SEC. 23. *Publication.* – This Act shall be published, through the
17 initiative of the grantee, fifteen (15) days after this Act is signed by the
18 President of the Philippines or has lapsed into law.

19 SEC. 24. *Effectivity Clause.* – This Act shall take effect fifteen (15)
20 days from the date of its publication in at least two (2) newspapers of general
21 circulation in the Philippines.

Approved,

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