



HOUSE OF REPRESENTATIVES

H. No. 4436

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BY REPRESENTATIVES DIMAPORO (M.K.), DIMAPORO (A.), ALVAREZ (F.), NIETO, DAGOOC, GUYA, EBCAS AND DE JESUS, PER COMMITTEE REPORT NO. 6

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AN ACT GRANTING THE LANA O DEL NORTE ELECTRIC COOPERATIVE A FRANCHISE TO CONSTRUCT, OPERATE, AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN ALL THE MUNICIPALITIES OF THE PROVINCE OF LANA O DEL NORTE

*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  
3 regulations, there is hereby granted to the Lanao del Norte Electric  
4 Cooperative (LANECO), hereunder referred to as the grantee, its  
5 successors or assignees, a franchise to construct, install, establish,  
6 operate, and maintain for commercial purposes and in the public  
7 interest, a power distribution system for the conveyance of electric  
8 power to the end users in the municipalities of Bacolod, Baloi,  
9 Baroy, Kapatagan, Kauswagan, Kolambugan, Lala, Linamon,  
10 Magsaysay, Maigo, Matungao, Munai, Nunungan, Pantao Ragat,  
11 Pantar, Poona Piagapo, Salvador, Sapad, Sultan Naga Dimaporo,  
12 Tagoloan, Tangcal, and Tubod in the Province of Lanao del Norte.

1           As used in this Act, distribution system refers to the system of  
2 wires and associated facilities including subtransmission lines  
3 belonging to a franchised distribution utility extending between the  
4 delivery point on the national transmission system or generating  
5 facility and the metering point/facility of the end user.

6           SEC. 2. *Manner of Operation of Facilities.* – All electric  
7 distribution facilities, lines, and systems for electric services owned,  
8 maintained, operated, or managed by the grantee, its successors or  
9 assignees, shall be operated and maintained at all times in the best  
10 manner, and it shall be the duty of the grantee, its successors or  
11 assignees, whenever required to do so by the Energy Regulatory  
12 Commission (ERC) or its legal successor, or the Department of  
13 Energy (DOE) or its legal successor, or the National Electrification  
14 Administration (NEA) or its legal successor, or any other authorized  
15 government agency, to modify, improve and change such facilities or  
16 systems in such a manner and to such extent as the progress in  
17 science and improvements in the electric power service industry  
18 may render reasonable and proper.

19           Whenever practicable and for purposes of maintaining order,  
20 safety and aesthetics along highways, roads, streets, alleys, or  
21 easements, the grantee may allow the use of its poles, facilities, or  
22 easements by interested parties upon reasonable compensation. The  
23 ERC or the NEA shall resolve cases of dispute or disagreement  
24 between parties.

25           SEC. 3. *Authority of the Energy Regulatory Commission*  
26 *(ERC) and the National Electrification Administration (NEA).* –  
27 The grantee shall secure from the ERC or the NEA, or any other  
28 government agency which has jurisdiction over the operation of the  
29 herein grantee, the requisite certificate of public convenience and

1 necessity and other appropriate permits and licenses for the  
2 construction and operation of its electric distribution system.

3           SEC. 4. *Excavation and Restoration Works.* – For the purpose  
4 of erecting and maintaining poles and other supports for wires or  
5 other conductors for the laying and maintaining underground wires,  
6 cables, pipes or other conductors, the grantee, its successors or  
7 assignees, is authorized to make excavations or lay conduits in any  
8 of the public places, roads, highways, streets, lanes, alleys, avenues,  
9 sidewalks, or bridges of said province, cities and/or municipalities,  
10 subject to prior approval of the Department of Public Works and  
11 Highways (DPWH) or the local government units (LGUs) concerned:  
12 *Provided, however,* That any public place, road, highway, street,  
13 lane, alley, avenue, sidewalk, or bridge disturbed, altered, or  
14 changed by reason of erection of poles or other supports or the  
15 underground laying of wires, other conductors or conduits, shall be  
16 repaired or replaced in workmanlike manner at the expense of the  
17 grantee, its successors or assignees, in accordance with the  
18 standards set by the DPWH or the LGU concerned. Should the  
19 grantee, its successors or assignees, after the ten (10)-day notice  
20 from the said authority, fail, refuse or neglect to repair or replace  
21 any part of public place, road, highway, street, lane, alley, avenue,  
22 sidewalk or bridge that has been disturbed, altered, or changed by  
23 the said grantee, its successors or assignees, then the DPWH or  
24 the LGU concerned shall have the right to have the same repaired  
25 or replaced in good order and condition and charge the grantee, its  
26 successors or assignees at double the amount of the costs and  
27 expenses for such repair or replacement.

28           SEC. 5. *Responsibility to the Public.* – The grantee shall  
29 supply electricity to its captive market in the urban and rural

1 portions of its franchise area in the least costly manner. In the  
2 interest of the public good and as far as feasible and whenever  
3 required by the ERC, the grantee shall modify, improve or change  
4 its facilities, poles, lines, systems, and equipment for the purpose of  
5 providing efficient and reliable service and reduced electricity costs.  
6 The grantee shall charge reasonable and just power rates for its  
7 services to all types of consumers within its franchised areas.

8 The grantee shall have the obligation to provide open and  
9 nondiscriminatory access to its distribution system and services for  
10 any end user within its franchise area consistent with Republic Act  
11 No. 9136, otherwise known as the "Electric Power Industry Reform  
12 Act of 2001". The grantee shall not engage in any activity that will  
13 constitute an abuse of market power such as unfair trade practices,  
14 monopolistic schemes, and any other activities that will hinder  
15 competitiveness of businesses and industries.

16 The exercise of the rights granted herein shall not result to  
17 stranded assets and stranded contract costs of existing and  
18 operating distribution utilities nor to unreasonable increases in  
19 costs to consumers.

20 SEC. 6. *Rates for Services.* – The retail rates and charges for  
21 the distribution of electric power by the grantee to its end users  
22 shall be regulated by and be subject to the approval of the ERC or  
23 its legal successor.

24 The grantee shall identify and itemize in its billing statement  
25 to end users the components of the retail rate charged pursuant to  
26 Republic Act No. 9136. Such rates charged by the grantee to the  
27 end users shall be made public and transparent. The grantee shall  
28 implement a lifeline rate to marginalized end users as mandated  
29 under Republic Act No. 9136.

1           SEC. 7. *Protection of Consumer Interests.* – The herein  
2 grantee shall establish a consumer desk that will handle consumer  
3 complaints and ensure adequate protection of consumer interests.  
4 The grantee shall act with dispatch on all complaints brought before  
5 it.

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

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

1           SEC. 10. *Term of Franchise.* – This franchise shall be for a  
2 term of twenty-five (25) years from the date of the effectivity of this  
3 Act, unless sooner revoked or cancelled by Congress for any  
4 violation of the terms and/or provisions of the franchise herein  
5 granted.

6           SEC. 11. *Renewal or Extension of Franchise.* – The grantee  
7 shall apply for the renewal or extension of its franchise five (5)  
8 years before its expiration, reckoned from fifteen (15) days after the  
9 publication of the franchise in the *Official Gazette* or in a newspaper  
10 of general circulation.

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

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

24           SEC. 14. *Commitment to Provide and Promote the Creation of*  
25 *Employment Opportunities.* – The grantee shall create employment  
26 opportunities and shall allow on-the-job trainings in their franchise  
27 operation: *Provided*, That priority shall be accorded to the residents  
28 of the place where their principal office is located: *Provided*,  
29 *further*, That the grantee shall follow the applicable labor standards

1 and allowance entitlement under existing labor laws, rules and  
2 regulations and similar issuances: *Provided, finally*, That the  
3 employment opportunities or jobs created shall be reflected in the  
4 General Information Sheet (GIS) to be submitted to the Securities  
5 and Exchange Commission (SEC) annually.

6         SEC. 15. *Sale, Lease, Transfer, Grant of Usufruct, or*  
7 *Assignment of Franchise.* - The grantee shall not sell, lease,  
8 transfer, grant the usufruct of, nor assign this franchise or the  
9 rights and privileges acquired thereunder to any person, firm,  
10 company, corporation, or other commercial or legal entity, nor  
11 merge with any other corporation or entity, nor the controlling  
12 interest of the grantee be transferred, simultaneously or  
13 contemporaneously, to any person, firm, company, corporation, or  
14 entity without the prior approval of the Congress of the Philippines.  
15 Congress shall be informed of any sale, lease, transfer, grant of  
16 usufruct, or assignment of franchise or the rights and privileges  
17 acquired thereunder, or of the merger or transfer of the controlling  
18 interest of the grantee, within sixty (60) days after the completion of  
19 the said transaction. Failure to report to Congress such change of  
20 ownership shall render the franchise *ipso facto* revoked. Any person  
21 or entity to which this franchise is sold, transferred, or assigned  
22 shall be subject to the same conditions, terms, restrictions, and  
23 limitations of this Act.

24         SEC. 16. *Dispersal of Ownership.* - In accordance with the  
25 constitutional provision to encourage public participation in public  
26 utilities, the grantee shall offer to Filipino citizens at least thirty  
27 percent (30%) or a higher percentage that may hereafter be  
28 provided by law of its outstanding capital stock and list and/or trade  
29 in any registered or organized securities market in the Philippines

1 within five (5) years from the commencement of its operations:  
2 *Provided*, That in cases where public offer of shares is not  
3 applicable, as determined by relevant government agency, other  
4 methods of encouraging public participation by citizens must be  
5 implemented. Noncompliance therewith shall render the franchise  
6 *ipso facto* revoked.

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

14 The annual report shall include an update on the roll-out,  
15 development, operation and/or expansion of business; audited  
16 financial statements; latest GIS; certification of the ERC and/or  
17 the NEA on the status of its permits and operations; and an update  
18 on the dispersal of ownership undertaking, if applicable.

19 A reportorial compliance certificate issued by Congress shall  
20 be required before any application for permit or certificate is  
21 accepted by the ERC or the NEA.

22 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege,  
23 exemption, or immunity granted under existing franchises, or may  
24 hereinafter be granted shall, upon prior review and approval of  
25 Congress, become part of previously granted power distribution  
26 franchises and shall be accorded immediately and unconditionally to  
27 the grantees of such franchises: *Provided*, That the foregoing shall  
28 neither apply to nor affect the provisions of power distribution



1 franchises concerning territorial coverage, the term, or the type of  
2 service authorized by the franchise.

3 SEC. 19. *Fine.* – Failure of the grantee to submit the  
4 requisite annual report to Congress shall be penalized by a fine of  
5 Five hundred pesos (P500.00) per working day of noncompliance.  
6 The fine shall be collected by the ERC from the delinquent franchise  
7 grantee separate from the reportorial penalties imposed by the ERC  
8 and the same shall be remitted to the Bureau of the Treasury.

9 SEC. 20. *Applicability of Existing Laws.* – The grantee shall  
10 comply with and be subject to the provisions of Commonwealth Act  
11 No. 146, or the “Public Service Act”, as amended; Republic Act  
12 No. 9136; and Republic Act No. 10531 or “An Act Strengthening  
13 the National Electrification Administration, Further Amending  
14 Presidential Decree No. 269, as Amended, Otherwise Known as the  
15 ‘National Electrification Administration Decree’.”

16 SEC. 21. *Repealability and Nonexclusivity Clause.* – This  
17 franchise shall be subject to amendment, alteration, or repeal by the  
18 Congress of the Philippines when the public interest so requires and  
19 shall not be interpreted as an exclusive grant of the privileges  
20 herein provided for.

21 SEC. 22. *Separability Clause.* – If any of the sections or  
22 provisions of this Act is held invalid, all other provisions not  
23 affected thereby shall remain valid.

24 SEC. 23. *Repealing Clause.* – All laws, decrees, orders,  
25 resolutions, instructions and rules and regulations or parts thereof,  
26 which are inconsistent with this Act, are hereby deemed repealed or  
27 modified accordingly.

1           SEC. 24. *Effectivity.* – This Act shall take effect fifteen (15)  
2 days after its publication either in the *Official Gazette* or in a  
3 newspaper of general circulation.

Approved,

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