

REPUBLIC ACT NO. 7678

AN ACT GRANTING THE DIGITAL TELECOM-
MUNICATIONS PHILIPPINES, INCORPORATED, A
FRANCHISE TO INSTALL, OPERATE AND MAINTAIN
TELECOMMUNICATIONS SYSTEMS THROUGHOUT
THE PHILIPPINES AND FOR OTHER PURPOSES

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

SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the Constitution and applicable laws, there is hereby granted to the Digital Telecommunications Philippines, Incorporated, its successors or assigns, for a period of twenty-five (25) years from the effectivity of this Act, the right, privilege and authority to construct, maintain and operate telecommunications systems throughout the Philippines, and to provide by means of the said telecommunications systems a telephone service and other telecommunications services in the Philippines. The grantee is further authorized to carry on the business of providing basic and enhanced public telecommunications services in and between provinces, cities and municipalities in the Philippines, and between the Philippines and other countries and territories, and for the purpose of providing said telecommunications services, to construct, own and operate telecommunications systems, in and between said provinces, cities and municipalities, to contract for telecommunications lines in and between the Republic of the Philippines and other countries, to construct, maintain and operate and use all telecommunications apparatus necessary for the provision of telecommunications services and install, construct and maintain telecommunications apparatus, in, on, over or under lands and waters, as may be necessary and best adapted to the provision of telecommunications services, and to connect and keep connected its telecommunications services in the Philippines and between the Philippines and other countries and territories: *Provided, however,* That all telecommunications apparatus

installed or used by the grantee shall be located in places authorized by the National Telecommunications Commission (hereinafter referred to as the Commission) and shall be installed in a workmanlike manner to the satisfaction of the said Commission: *Provided, further,* That, upon reasonable notice of the Commission, the grantee may be required to relocate its telecommunications lines so as to permit the access to or between buildings or other structures on condition that the actual cost of such relocation of telecommunications lines shall be paid by the person at whose instance the telecommunication line is moved; and, at the expense of the grantee, its successors or assigns, to relocate telecommunications lines when the Commission so orders in the public interest: *Provided, finally,* That said grantee shall have the right to appeal to the President.

Should the grantee fail, refuse or neglect within a period of thirty (30) days after notice of the order of the Commission to relocate its telecommunications lines, said Commission may relocate the telecommunications lines at the expense of the grantee: *Provided,* That the installation of all telecommunications apparatus and construction work shall be done in accordance with the rules and regulations prescribed by the Commission: *Provided, further,* That whenever a telecommunication line is carried on poles in any city or municipal center, then the telecommunication line shall be placed underground, whenever so ordered by the Commission: *Provided, furthermore,* That the poles erected and the telecommunications lines installed by virtue of this franchise shall be so placed as will at most result only in the minimum interference on the wavelengths or frequencies of the existing stations or other stations which may be established in accordance with law of other telecommunications services grantees, without in any way diminishing its own right to use its selected wavelengths or frequencies or reception thereon as would maximize rendition of the grantee's services and/or the availability thereof: *Provided, finally,* That any pole erected by the grantee shall be of such a height as to maintain any telecommunication line attached to them at a height of at least fifteen (15) feet crossing roads or streets, and shall be placed so as not to be a danger to the public safety, in accordance with a plan approved by the Commission.

SEC. 2. *Definition of Terms.* –

(a) "Telecommunications system" means a facility for conveyance through the agency of the electric, magnetic, electromagnetic, electrochemical or electromechanical energy of speech, music and other sounds, visual images and signal serving either for the impartation of any matter or for the actuation or control of machinery or apparatus.

(b) "Telecommunication apparatus" means any apparatus constructed or adapted for use in transmitting or receiving anything conveyed by a telecommunication system and includes any telecommunication line used in telecommunication system.

(c) "Telecommunication message" means anything conveyed by means of telecommunication system.

(d) "Telecommunication service" means a service consisting of the conveyance by means of a telecommunication system of any telecommunication message and includes a directory information service and installation, maintenance, adjustment, repair, movement or replacement of telecommunication apparatus, excluding the broadcasting of any telecommunication message, the purpose of which is to advertise any product or service other than the use of the telecommunication service itself.

(e) "Telephone service" means a telecommunication service consisting of the conveyance of voice and non-voice telecommunication messages and data including, but not limited to, video transmission, telefax, teleconferencing, television, and the like.

(f) "Telecommunication line" means any wire, cable, tube, pipe, conduit or other similar things, including its casing or coating, which is so designed or adapted to be a telecommunication apparatus.

(g) "Local telephone exchange" means an item of telecommunication apparatus designated by the grantee as such in its application with the National Telecommunications

Commission for a certificate of public necessity and convenience under Section 10 hereof.

SEC. 3. *Authority of the National Telecommunications Commission.* – The grantee shall secure from the Commission the appropriate permits and licenses for the location, construction, installation and operation of its radio telecommunications systems. The Commission shall have the authority to supervise and regulate the construction, operation and regulation of its radio telecommunications systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission.

The grantee shall not begin any construction whatsoever pursuant to this franchise or exercise any right or privilege under this franchise without first obtaining a certificate of public necessity and convenience from the Commission. After due hearing, the Commission shall determine whether such construction or such exercise of the right or privilege under this franchise is necessary and proper for public convenience, and in a proper case issue the certificate. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance, or service of the radio telecommunications systems as the public convenience and interest may reasonably require for each certificate it shall have obtained. Such certificate shall state the date the grantee shall commence the construction work and the period within which the work shall be completed.

SEC. 4. *Responsibility to the Public.* – The grantee shall supply telephone service in any municipality in the Philippines where it has established a local telephone exchange to any applicant therefor; and as between such applicant and other like applicants, in the order of the date of their applications up to the limit of the capacity of its telephone exchange as determined by the Commission in any application made by the grantee for the construction of the relevant telecommunications systems, and should the demand for the telephone service at any time increase beyond the capacity of its local telephone exchange to supply the same, the capacity of said telephone exchange shall be increased by the grantee to meet such demand, in accordance with the

decision of the Commission: *Provided*, That in case the point at which the telephone service to be supplied is more than fifty meters (50 m.) from the distribution points operated by the grantee, the latter shall not be obliged to furnish said service, unless the applicant for the telephone service defrays the actual expenses for the installation of the telecommunications apparatus necessary for such service and in such cases the Commission may extend the time within which the grantee shall furnish such service.

For the purpose of installing, operating and maintaining its telecommunications lines, it shall be lawful for the grantee to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks, bridges of said municipalities, forest reserves and other similar property of the government of the Philippines or any of its branches or instrumentalities: *Provided, however*, That any public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered, or changed by reason of the installation, operation and maintenance of said telecommunications lines underground shall be repaired and replaced in a workmanlike manner by the said grantee to the satisfaction of the Department of Public Works and Highways. Should the grantee, its successors or assigns, after the lapse of thirty (30) days from receipt of notice from the proper authority fail, refuse, or neglect to repair or replace any part of a public place, road, highway, street, lane, alley, avenue, sidewalk or bridge altered, changed, or disturbed by said grantee, then the Department of Public Works and Highways shall have the right to have the same repaired and placed in good order and condition at the cost and expense of the grantee.

The grantee shall operate and maintain all its stations, lines, cables, systems and equipment for the transmission and reception of messages, signals and pulses in satisfactory manner at all times and whenever required by the Commission in the interest of the public good, and as far as practicable, modify, improve or change such stations, lines, cables, systems, and equipment to keep abreast with the advance in science and technology.

SEC. 5. *Tax Provisions.* – The grantee shall be liable to pay the same taxes on its real estate, buildings, and personal

property exclusive of this franchise as other persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee shall pay to the Bureau of Internal Revenue each year, within thirty (30) days after the audit and approval of the accounts, a franchise tax as may be prescribed by law of all gross receipts of the telephone or other telecommunications businesses transacted under this franchise by the grantee: *Provided*, That the grantee shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The grantee shall file the return with and pay the tax due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue.

SEC. 6. *Acceptance of Franchise.* – Within sixty (60) days after the effectivity of this Act, the grantee shall file with the Secretary of Transportation and Communications its written acceptance of this franchise and all of the terms and conditions thereof. In default of such acceptance within the said time, this franchise shall become null and void.

SEC. 7. *Deposit for Acceptance of Franchise and Telephone Service.* – As a guaranty that it has accepted this franchise in good faith and that within twenty-four (24) months from the date of the Commission's granting of a certificate of public necessity and convenience, it shall be fully equipped and ready to operate a telephone service according to the terms of this franchise, and shall furthermore extend its telecommunications systems as rapidly as conditions so warrant. The grantee shall, within thirty (30) days from the granting of such certificate, deposit with the National Treasury the sum of One hundred thousand pesos (P100,000), or negotiable bonds of the Philippine government or other securities approved by the national government with the face value of One hundred thousand pesos (P100,000).

Should the grantee for any other cause than an act of God, act of public enemy, usurpation of military power, martial law, riot, civil commotion, or inevitable cause, fail, refuse or neglect to begin the business of providing a telephone service within twenty-four (24) months from the date of the granting of said certificate of public necessity and convenience, or fail, refuse, or neglect to be fully equipped and be ready to operate the telecommunications systems approved and ordered by the Commission according to the terms of this franchise within the same period, then the deposit prescribed by this section to be made with the National Treasury, whether in money, bonds or other securities, shall become the property of the national government as liquidated damages caused to the government.

Should the grantee perform on time the undertaking for which the deposit is required, then said deposit shall be returned by the government to the grantee.

SEC. 8. *Filing of Application for Certificate with the Commission.* – Within six (6) months after the approval of this Act, the grantee shall file for the initial availment of the franchise herein granted, an application with the Commission for a certificate of public necessity and convenience authorizing it to construct, operate and maintain a telecommunication system in such municipalities, cities and/or provinces as may be authorized by the Commission. Should the grantee fail to comply with the conditions set forth in any of the certificates issued by the Commission, the certificate concerned shall become null and void.

SEC. 9. *Acceptance of Certificate.* – To avail itself of the rights granted in the certificate of public necessity and convenience, the grantee must file with the Commission, within such period as the Commission shall fix, its acceptance in writing of the terms and conditions of said certificate.

SEC. 10. *Interconnection.* – The grantee is authorized to connect or demand interconnection of its telecommunications systems to any other telecommunications systems installed, maintained and operated by any other duly authorized person or entity in the Philippines for the purpose of providing telecommunications services to the public under such terms and

conditions mutually agreed upon by the parties: *Provided*, That the terms and conditions of such interconnection shall be subject to the review of the Commission: *Provided, further*, That if the parties fail to agree within a period of ninety (90) days from the initial date of interconnection proposal, any interconnection shall be made in accordance with such terms and conditions mandated by the National Telecommunications Commission.

SEC. 11. *Book of Accounts*. – The grantee shall keep a separate account of the gross receipts of the telecommunications businesses transacted by it in each of the municipalities of the various provinces and shall furnish the Commission on Audit and the National Telecommunications Commission a copy of such account not later than the thirty-first (31st) day of July of each year for the preceding twelve (12) months.

The books and accounts of the grantee shall always be open for inspection by the Commission on Audit or its authorized representatives, and it shall be the duty of the grantee to submit to the Commission on Audit quarterly reports in duplicate showing the gross receipts and the net receipts for the quarter past and the general condition of the business.

SEC. 12. *Non-exclusivity of Franchise; Interpretation of Franchise*. – The franchise granted under this Act is not exclusive and shall not prevent the grant of similar franchises to other qualified persons or entities: *Provided, however*, That the telecommunications lines which shall be installed by virtue of a subsequent franchise shall be so placed as not to impair the efficient and effective operation of the telecommunications systems which shall have been installed under this franchise and actually in existence at the time of the granting of said subsequent franchise: *Provided, further*, That the telecommunications lines installed by virtue of this franchise for the provision of a telephone service or the installation, operation and maintenance of a telecommunications system under this franchise shall be so placed as not to impair the efficient and effective operation of such telephone service or telecommunications systems: *Provided, finally*, That if any subsequent franchise for telecommunications services is awarded or granted by the Congress of the Philippines with terms, privileges and conditions more favorable and

beneficial than those contained in this Act, then the same privileges or advantages shall, *ipso facto*, accrue to the herein grantee and be deemed part of this Act.

SEC. 13. *Warranty in Favor of National and Local Governments.* – The grantee shall hold the national, provincial, city and municipal governments harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the installation and operation of the telecommunications systems of the grantee.

SEC. 14. *Rates for Services.* – The rates to be charged to the subscribers for telephone service and other telecommunications services, whether flat rates or measured rates, are subject to the approval of the Commission.

SEC. 15. *Sale, Lease, Transfer, Usufruct, etc.* – The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or entity, nor merge with any other corporation or entity without the prior approval of the Congress of the Philippines. Neither shall the controlling interest in the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines: *Provided*, That the foregoing limitations shall not apply to: (1) any transfer or issuance of shares of stock in the implementation of requirement for the dispersal of the grantee's ownership pursuant to Section 21 of this Act, (2) any transfer or sale of shares of stock to a foreign investor or investors, (3) any issuance of shares to any foreign or local investors, pursuant to or in connection with any increase in the grantee's authorized capital stock which shall result in the dilution of the stockholdings of the grantee's then existing stockholders, (4) any combination thereof where such transfer, sale, or issuance is effected in order to enable the grantee to raise the necessary capital or financing for the provision of any of the services authorized by this Act and/or to carry out any of the purposes for which the grantee has been incorporated or organized: *Provided, further*, That any such transfer, sale, or issuance is in accordance with any applicable constitutional limitations. Any

person or entity to which this franchise is validly sold, transferred or assigned shall be subject to all the same conditions, terms, restrictions, and limitations of this Act.

SEC. 16. *Annual Report to Congress.* – The grantee shall file a detailed annual report to the Congress of the Republic of the Philippines with respect to its programs, operations and/or compliance with the terms and conditions of the franchise.

SEC. 17. *Right of Government.* – The government shall have the privilege of using without compensation the poles of the grantee to attach, install, maintain and operate wires of its telegraph system: *Provided, however,* That the Bureau of Posts shall have the right to place additional crossarms and wires on the poles of the grantee by paying a compensation, the rate of which is to be agreed upon by the Postmaster General and the grantee: *Provided, further,* That in case of disagreement as to the rate of contract rental, the same shall be fixed by the Commission.

Municipalities shall also have the privilege of using, without compensation, the poles of the grantee, to attach, install, maintain and operate wires of local police and fire alarm system; but the wires of such telegraph lines, police or fire alarm shall be placed and strung in such manner as to cause no interference with or damage to the wires or the telephone service of the grantee.

SEC. 18. *Guarantee Bond for Compliance with Conditions of Franchise: Effect of Noncompliance.* – Within forty (40) days after the effectivity of this Act, the grantee shall file a bond in the amount of One million pesos (P1,000,000) to guarantee for the full compliance with the fulfillment of the conditions under which this franchise is granted. In the event the grantee fails to fulfill any of the said conditions, this franchise shall become null and void and the bond shall be forfeited in favor of the government.

SEC. 19. *Alteration or Repeal of Franchise.* – This franchise shall be subject to amendment, alteration or repeal by the Congress. All lands or rights to use or occupy lands secured by virtue of this franchise shall revert upon its termination to the national, provincial, or municipal governments concerned

which were the owners thereof on the date of the granting of this franchise.

SEC. 20. *Separability Clause.* – If any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions hereof shall continue to be in force as if the section or provision so declared unconstitutional had never been incorporated in this Act.

SEC. 21. *Dispersal of Ownership.* – In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer at least thirty *per centum* (30%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law in any securities exchange in the Philippines within two (2) years from the effectivity of this Act.

SEC. 22. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after the date of its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved, February 17, 1994.