

REPUBLIC ACT NO. 8004

AN ACT GRANTING TO MILLENNIA TELECOMMUNICATIONS CORPORATION A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN TELECOMMUNICATIONS SERVICES WITHIN THE PHILIPPINES AND INTERNATIONAL POINTS, AND FOR OTHER PURPOSES

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

SECTION 1. Subject to the conditions established in this Act and the provisions of the Constitution and the provisions of laws, orders or issuances not inconsistent herewith, there is hereby granted to Millennia Telecommunications Corporation, its successors or assigns the right, privilege, and authority to construct, operate and maintain all types of mobile telecommunications including cellular, personal communications network, paging and trunk radio services (such as but not limited to the transmission and reception of voice, data facsimile, audio and video, and all other improvements and innovations pertaining to or as may be applicable to mobile telecommunications technology), as well as multi-channel microwave, fiber optic and satellite distribution systems that may be required for purposes of linking together said mobile telecommunications network internally and externally to other mobile telecommunications network and traditional wireline telephone systems whether domestic or international, whether directly or indirectly through networks, and generally, to provide, by means of this telecommunications systems, a telephone service and such other telecommunications services such as there may be in demand for in the Philippines.

SEC. 2. The President of the Philippines in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace may take over and operate the transmitting, receiving, and switching stations of the grantee or to authorize

the temporary use and operation thereof by any department of the Government upon the compensation to the grantee for the use of said stations during the period when they shall be so operated.

SEC. 3. The grantee may install, operate and maintain radio telecommunications systems to provide a telephone service and other telecommunications services including mobile services within the territory of the Republic of the Philippines and between the Republic of the Philippines and ships at sea, aircraft in the air, and the telecommunications systems of other countries: *Provided*, That the location, installation or operation of any such radio telecommunication system must be previously approved by the National Telecommunications Commission (NTC): *Provided, further*, That the National Telecommunications Commission shall have the authority to supervise and regulate the installation or operation of such radio telecommunication system.

SEC. 4. For the purpose of installing, operating and maintaining its telecommunication lines, it shall be lawful for the grantee, its successors or assigns, to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks, bridges of said provinces, cities, and municipalities: *Provided, however*, That any public place, highways, 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 said grantee, its successors or assigns to the satisfaction of the National Telecommunications Commission. Should the grantee, its successors or assigns, after thirty (30) days notice from 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, its successors or assigns, then they shall have the right to have the same repaired and placed in good order and condition at the cost and expense of the grantee, its successors and assigns.

SEC. 5. This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner

revoked or cancelled. In the event that the grantee fails to operate continuously for two (2) years, this franchise shall be deemed *ipso facto* revoked.

SEC. 6. Acceptance of this franchise shall be given in writing within sixty (60) days after the approval of this Act. The grantee shall operate the telecommunications systems for which this franchise is granted within four (4) years from the date of its acceptance in writing of this franchise. Refusal or failure to accept the franchise or to operate within the prescribed period shall render the franchise void.

SEC. 7. All telecommunications systems owned, operated or maintained by the grantee, its successors or assigns, shall be operated and maintained at all times in a satisfactory manner, and it shall be the further duty of said grantee, its successors or assigns, whenever required to do so by the National Telecommunications Commission, to modify, improve and change such telecommunication systems, in such manner and to such extent as the progress of science and improvements in the method of conveyance of telecommunications messages by means of said systems may make reasonable, proper and economically feasible.

SEC. 8. The grantee, its successors or assigns, shall keep a separate account of the gross receipts of the telecommunications service business transacted by it and shall furnish to the Commission on Audit and the National Treasurer a copy of such account not later than the thirty-first of January of each year for the preceding twelve (12) months.

SEC. 9. The grantee shall not exercise any right or privilege under this franchise without first having obtained such certificate of public necessity and convenience from the National Telecommunications Commission. This franchise shall not take effect nor shall any power be exercised by the grantee until the National Telecommunications Commission shall have allotted to the grantee the frequencies and wavelengths to be used and determined the stations to and from which each frequency and wavelength may be used, and issued to the grantee a license for such use.

SEC. 10. The stations of the grantee shall be so constructed and operated and the wavelengths so elected as to avoid interference with existing stations and to permit the expansion of the grantee's services.

SEC. 11. No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefor, and any authority to take and occupy land contained herein shall not apply to the taking, use, or occupation of any land except such as is required for the actual and necessary purposes for which this franchise is granted.

SEC. 12. As a guaranty that this franchise has been accepted in good faith, the grantee, its successors or assigns, shall file, after the granting of the certificate of public necessity and convenience by the National Telecommunications Commission, with the National Treasurer, a surety bond in such amount as may be fixed by the proper government authority to guarantee full compliance and fulfillment of the conditions under which this franchise is granted.

Should the said grantee, its successors or assigns for any cause other than the act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause, fail, refuse, or neglect to begin, within two (2) years from the date of the granting of said certificate of public necessity and convenience, the business of providing telecommunication service or fail, refuse, or neglect to be fully equipped and ready to operate, within two (2) years from the date of granting of said certificate of public necessity and convenience, telecommunications systems as have been agreed with competent authority, according to the terms of this franchise, then the bond prescribed by this section to be filed with the National Treasurer shall become the property of the National Government as liquidated damages caused to the Government by such failure, refusal or neglect, and thereafter no interest on said bonds shall be paid to the grantee, its successors or assigns.

Should the grantee, its successors or assigns, begin the business of providing a telephone service and be ready to operate according to the terms of this franchise, telecommunications

systems within two (2) years from the date of the granting of said certificate of public necessity and convenience, then and in that event the bond prescribed by this section shall be returned by the Government of the grantee, its successors or assigns, as soon as the telephone service has begun in accordance with the terms of this franchise: *Provided, further,* That all the time during which the grantee, its successors or assign, may be prevented from carrying out the terms and conditions of this franchise by any of said causes shall be added to the time allowed by this franchise for compliance with its provisions.

SEC. 13. The grantee, its successors or assigns 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 which are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns, shall be levied, assessed and collected a franchise tax equivalent to three percent (3%) of all gross receipts of the business transacted under this franchise by the grantee, its successors or assigns, and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: *Provided,* That the grantee, its successors or assigns, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code.

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. The return shall be subject to audit by the Bureau of Internal Revenue.

SEC. 14. The rates for the telephone service or charges for every type of call, flat rates as well as measured rates, are subject to the approval of the National Telecommunications Commission.

SEC. 15. The grantee is authorized to connect its telecommunications systems to any other telecommunication system installed, operated and maintained by any other grantee in the Philippines for the purpose of providing telecommunications services to the public on such terms and conditions as may be prescribed from time to time by the Secretary of Transportation and Communications.

SEC. 16. The books and accounts of the grantee, its successors or assigns, shall always be open to the inspection of the Commissioner on Audit or his 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. 17. The rights herein granted shall not be exclusive, and the rights and power to grant to any corporation, association, or person other than the grantee, a franchise for the provision of telephone service or the installation, operation and maintenance of a telecommunications systems grant subsequent to this franchise shall be so placed as not to impair the efficient and effective operation of the telecommunications systems installed under this franchise and actually in existence at the time of the granting of said subsequent franchise: *Provided, further,* That the National Telecommunications Commission after hearing both parties interested, may compel the grantee of this franchise or its successors or assigns, to remove, relocate, or replace its telecommunication lines but in such case the reasonable cost of the removal, relocation, or replacement shall be paid by the grantee of this franchise or its successors or assigns.

SEC. 18. 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, except when the transfer is done: (a) through a stock exchange transaction; (b) for purposes of qualifying persons for election to the board; and (c) to a corporation that is controlled by the same stockholders as that of the grantee. 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. 19. In compliance with the constitutional mandate to democratize ownership of public utilities, the herein grantee shall make a public offering through the stock exchange of at least thirty percent (30%) of its common stocks within a period of three (3) years from the date of the effectivity of this Act: *Provided*, That no single person or entity shall be allowed to own more than five percent (5%) of the stock offering.

SEC. 20. The grantee is authorized to contract the installation and operation of the telecommunications system which is the subject of this grant, to private entities with expertise in the field of telecommunications under such terms and conditions as may be approved by the National Telecommunications Commission.

SEC. 21. This franchise is granted with the understanding and upon the condition that it shall be subject to amendment, alteration or repeal by the Congress as provided in the Constitution, and that all lands or rights or use or occupation of lands secured by virtue of this franchise shall revert upon its termination to the national, provincial, city or municipal governments which were the owners thereof upon the date on which this franchise was granted. The pertinent provisions of the Constitution are hereby incorporated in and made part of these presents, with the same effect as if they were expressed herein.

SEC. 22. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation in the Philippines.

Lapsed into law on April 27, 1995 without the President's signature, pursuant to Sec. 27(1), Article VI of the Constitution.