

H. No. 2185

Republic of the Philippines
Congress of the Philippines
Metro Manila
Sixteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand fifteen.

[REPUBLIC ACT NO. 10891]

AN ACT GRANTING THE FIRST BAY POWER CORP. (FBPC) A 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:

SECTION 1. *Nature and Scope of Franchise.* — Subject to the provisions of the 1987 Philippine Constitution and applicable laws, rules and regulations, there is hereby granted to First Bay Power Corp. (FBPC), hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to the end users in the Municipality of Bauan, Province of Batangas.

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

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

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

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

SEC. 4. Excavation and Restoration Works. – For the purpose of erecting and maintaining poles, pipes and other supports for wires or other conductors for the purpose of laying and maintaining said facilities, wires, cables, pipes, or other conductors, it shall be lawful for the grantee, its successors or

assigns, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned as may be appropriate, to make excavations or lay conduits in any of the public places, road, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said province, cities and/or municipalities: *Provided, however,* That a public place, road, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of erection of poles or other supports or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in workmanlike manner at the expense of the grantee, its successors or assigns, in accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assigns, after the ten (10)- day notice from the said authority, fail, refuse or neglect to repair or replace any part of the public place, road, highway, street, lane, alley, avenue, sidewalk or bridge altered, changed, or disturbed by the said grantee, its successors or assigns, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed in good order and condition at double expense to be charged against the grantee, its successors or assigns.

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

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

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

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

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

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

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

SEC. 10. *Term of Franchise.* - This franchise shall be in effect for a period of twenty-five (25) years from the date of effectivity of this Act, unless sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate continuously for two (2) years.

SEC. 11. *Acceptance and Compliance.* - Acceptance of this franchise shall be given in writing to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

SEC. 12. *Warranty in Favor of the National and Local Governments.* - The grantee shall hold the national, provincial, city and municipal governments of the Philippines free from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction, installation, operation and maintenance of the distribution system of the grantee.

SEC. 13. *Liability to Damages.* - The grantee shall be liable for any injury and damage arising from or caused by accident to persons and property by reason of any defective construction under this franchise or of any neglect or omission to keep its poles and wires in safe condition.

SEC. 14. *Sale, Lease, Transfer, Usufruct, etc.* - The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation, or other commercial or legal entity, nor merge with any other corporation or entity, nor shall transfer the controlling interest of the grantee, 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 Congress shall be informed of any lease, transfer, grant of usufruct, sale or assignment of franchise or the rights and privileges acquired thereunder within

sixty (60) days after the completion of said transaction: *Provided, further*, That any such transfer, sale, or assignment is in accordance with the constitutional limitations: *Provided, furthermore*, That failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to which this franchise is sold, transferred, or assigned, shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 15. *Dispersal of Ownership*. – In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (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 five (5) years from the commencement of its operations: *Provided*, That in cases where public offer of shares is not applicable, establishment of cooperatives and other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SEC. 16. *Reportorial Requirement*. – The grantee shall submit an annual report to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of the succeeding year.

SEC. 17. *Penalty Clause*. – Any grantee who fails to submit the requisite annual report to Congress shall be penalized by a fine of five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the ERC from said delinquent franchise grantee separate from the reportorial penalties imposed by the ERC. All proceeds from the fines or penalties shall accrue to the monitoring fund of the ERC in line with its supervisory and regulatory functions. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the ERC.

SEC. 18. *Equality Clause*. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided, however*, That the foregoing shall neither apply to nor affect provisions concerning territory covered by the franchise, the life span of the franchise or the type of service authorized by the franchise: *Provided, further*, That the foregoing shall not apply to the sale, lease, transfer, grant of usufruct, or assignment of legislative franchises with prior congressional approval.

SEC. 19. *Applicability Clause*. – The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Service Act" and Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001".

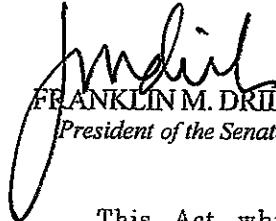
SEC. 20. *Separability Clause*. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.


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

SEC. 22. *Publication*. – This Act shall be published, through the initiative of the grantee, fifteen (15) days after it has been signed by the President of the Philippines or has lapsed into law.

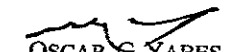
SEC. 23. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.


Approved,


FRANKLIN M. DRILON
President of the Senate


FELICIANO BELMONTE JR.
Speaker of the House of Representatives

This Act which originated in the House of Representatives was passed by the House of Representatives and the Senate on October 9, 2015 and May 23, 2016, respectively.


OSCAR G. YABES
Secretary of the Senate


MARILYN B. BARUA YAP
Secretary General House of Representatives

Approved:

BENIGNO S. AQUINO III
President of the Philippines

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Lapsed into law on JUL 21 2016
Without the signature of the President.
In accordance with Article VI Section
27 (1) of the Constitution.