

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

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

[REPUBLIC ACT NO. 11322]

AN ACT GRANTING A LEGISLATIVE FRANCHISE TO COTABATO ELECTRIC COOPERATIVE, INC.-PPALMA (COTELCO-PPALMA) TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE MUNICIPALITIES OF PIKIT, PIGCAWAYAN, ALEOSAN, LIBUNGAN, MIDSAYAP AND ALAMADA, PROVINCE OF COTABATO, AND ITS NEIGHBORING SUBURBS

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, rules and regulations, there is hereby granted to the Cotabato Electric Cooperative, Inc.-PPALMA (COTELCO-PPALMA),

hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate and maintain for public interest, a distribution system for the conveyance of electric power to the end users in the municipalities of Pikit, Pigcawayan, Aleosan, Libungan, Midsayap and Alamada, Province of Cotabato, and its neighboring suburbs.

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 assignees, shall be operated and maintained at all times in the best manner, and it shall be the duty of the grantee, its successors or assignees, whenever required to do so by the Energy Regulatory Commission (ERC) or its legal successor, or the Department of Energy (DOE) or its legal successor, or the National Electrification Administration (NEA) 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 service industry may render reasonable and proper.

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

SEC. 3. *Authority of the Energy Regulatory Commission (ERC) and the National Electrification Administration (NEA).* – The grantee shall secure from the ERC or the NEA, 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 and other supports for wires or other conductors for laying and maintaining underground wires, cables, pipes or other conductors, the grantee, its successors or assignees, is authorized to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of said province, cities and/or municipalities, subject to prior approval of the Department of Public Works and Highways (DPWH) or the local government units (LGUs) concerned: *Provided, however,* That any 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 or replaced in workmanlike manner at the expense of the grantee, its successors or assignees, in accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assignees, after the ten (10)-day notice from the said authority, fail, refuse or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered, or changed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired or replaced in good order and condition and charge the grantee, its successors or assignees, at double the amount of the costs and expenses for such repair or replacement.

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 franchised areas.

The grantee shall have the obligation to provide open and nondiscriminatory access to its distribution system and services to 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 unfair trade practices, monopolistic schemes, and any other activities that will hinder competitiveness of business and industry.

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

The grantee shall identify and itemize in its electricity bill to the end users the components of the retail rate pursuant to Republic Act No. 9136. 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. *Protection of Consumer Interests.* – The herein grantee shall establish a consumer desk that will handle consumer complaints and ensure adequate protection of consumer interests. The grantee shall act with dispatch on all complaints brought before it.

SEC. 8. *Commitment to Provide and Promote the Creation of Employment Opportunities.* – The grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operation: *Provided,* That priority shall be accorded to the residents where their principal office is located: *Provided, further,* That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations, and similar issuances: *Provided, finally,* That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission annually.

SEC. 9. *Right of the 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 distribution system 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 distribution system during the period when these shall be so operated.

SEC. 10. *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. 11. *Term of Franchise.* — This franchise shall be for a term 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 that the grantee fails to operate continuously for two (2) years.

SEC. 12. *Acceptance of the Franchise.* — Acceptance of the terms of this franchise shall be in writing to the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Philippine Senate, within sixty (60) days after 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. 13. *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, liabilities, demands, or actions arising out of accidents that cause injury to persons and damage to properties, during the construction, installation, operation, and maintenance of the distribution system of the grantee.

SEC. 14. *Liability to Damages.* – The grantee shall be liable for any injury to persons and damage to property arising from or caused by accident 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. 15. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* – 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 simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of the said transaction. Failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked. 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. 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 of Public Services of the Philippine 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. *Equality Clause.* – Except for taxes and customs duties, any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereinafter be granted shall, upon prior review and approval of Congress, become part of previously granted power distribution franchises and shall be accorded immediately and unconditionally to the grantees of such franchises: *Provided, however,* That the foregoing shall neither apply to nor affect provisions concerning territory covered, term, 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 franchise with prior congressional approval.

SEC. 18. *Applicability of Existing Laws.* – The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146 or the “Public Service Act”, as amended; Republic Act No. 9136; and Republic Act No. 10531 or the “National Electrification Administration Reform Act of 2013”.

SEC. 19. *Fine.* – Any grantee who fails to submit the 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 separately by the ERC distinct from the penalties it imposes for noncompliance of its own reportorial requirements.

SEC. 20. *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. 21. *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. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,



VICENTE C. SOTTO III
President of the Senate




GLORIA MACAPAGAL-ARROYO
Speaker of the House of Representatives

This Act which originated in the House of Representatives was passed by the House of Representatives on May 29, 2017, amended by the Senate of the Philippines on February 6, 2019, and which amendments were concurred in by the House of Representatives on February 8, 2019.



MYRA MARIE D. VILLARICA
Secretary of the Senate



DANTE ROBERTO P. MALING
Acting Secretary General House of Representatives

Approved: **APR 17 2019**



RODRIGO ROA DUTERTE
President of the Philippines



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