

[REPUBLIC ACT NO. 11420, August 22, 2019]

AN ACT GRANTING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE", LEASE, OWN, MANAGE AND MAINTAIN DISTRIBUTION SYSTEMS FOR THE CONVEYANCE OF ELECTRIC POWER TO END USERS IN SELECTED AREAS COVERED UNDER REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE "BASES CONVERSION AND DEVELOPMENT ACT OF 1992"

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 Bases Conversion and Development Authority (BCDA), a government entity created pursuant to Republic Act No. 7227, as amended, otherwise known as the "Bases Conversion and Development Act of 1992", and hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate, lease, own, manage and maintain for commercial purposes and in the public interest, distribution systems for the conveyance of electric power to end users in selected areas covered by the grantee pursuant to Republic Act No. 7227, as amended.

Specifically, the areas covered by this franchise are the following:

- (a) John Hay Station (Baguio City);
- (b) Wallace Air Station (Poro Point, La Union);
- (c) O'Donnell Transmitter Station (Capas, Tarlac);
- (d) Capas Relay Station (Capas, Tarlac); and
- (e) Portion of the Clark Special Economic Zone (CSEZ) covering the new Clark City (Tarlac).

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. 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 any other government agency concerned, to modify, improve and change such facilities or systems in such 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 shall resolve cases of dispute or disagreement between parties.

SEC. 3. *Authority of the Energy Regulatory Commission. (ERC).* — The grantee shall secure from the ERC 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 the laying and maintaining of 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 unit (LGU) 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 a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been 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 cost and expenses for such repair or replacement.

SEC. 5. *Responsibility to the Public.* - The grantee shall supply electricity to its captive market in the urban and rural portions of its franchise area in the least costly manner. In the interest of the public good, 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.

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 unfair trade practices, monopolistic schemes, and other activities that will hinder competitiveness of businesses and industries.

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

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 be subject to the approval of the ERC or its legal successor.

The grantee shall identify and itemize in the statement of account it issues to end users the components of the retail rate ' charged pursuant to Republic Act No. 9136. Such rates charged by the grantee shall be made public and transparent. The grantee shall implement a 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. *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. 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 the effectivity of this Act, unless sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to comply with any of the following conditions:

- (a) Commence operations within one (1) year from the approval of its operating permit by the ERC;
- (b) Commence operations within three (3) years from the effectivity of this Act; and
- (c) Operate continuously for two (2) years.