

[REPUBLIC ACT NO. 9321, August 08, 2004]

**AN ACT GRANTING THE ETELCO, INC. A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN
TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE
PHILIPPINES**

*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 eTELCO, Inc., hereunder referred to as the grantee, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wire and/or wireless telecommunications systems and except for mobile and cellular, shall include but not be limited to paging, fiber optics, multichannel multipoint distribution systems (MMDS), local multipoint distribution systems (LMDS), satellite transmit and receive systems, switches and their value-added services such as, but not limited to, transmission of voice, data facsimile, control signs, audio and video, information service bureau and all other value-added technologies as are presently available or will be made available through technological advances or innovations in the future, and/or construct, acquire, lease and operate or manage transmitting and receiving stations, lines, cables or systems as is or are convenient or essential to efficiently carry out the purpose of this franchise.

SEC. 2. *Manner of Operation of Stations or Facilities.* — The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies of existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

SEC. 3. *Authority of the National Telecommunications Commission.* — The grantee shall secure from the National Telecommunications Commission (NTC), hereinafter referred to as the Commission, a certificate of public convenience and necessity or the appropriate permits and licenses for the construction, installation and operation of its telecommunications systems/facilities. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance or service level of the telecommunications system. The Commission shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence

the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

SEC. 4. *Ingress and Egress.* — For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be lawful for the grantee, with the prior approval of the Department of Public Works and Highways (DPWH), to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said provinces, cities and/or municipalities: *Provided, however,* That a public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of the erection of poles or supports or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in a workmanlike manner by said grantee, in accordance with the standards set by the DPWH. Should the grantee, after the ten (10) days' 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 distributed by said grantee, then the DPWH 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.

SEC. 5. *Responsibility to the Public.* — The grantee shall conform to the ethics of honest enterprise and shall not use its stations/facilities for obscene or indecent transmission or for dissemination of deliberately false information or willful misrepresentation, or assist in subversive or treasonable acts. The grantee shall provide basic or enhanced telephone service in any municipality in the Philippines where it has an approved certificate of public convenience and necessity for the establishment, operation and maintenance of a local exchange service, without discrimination to any applicant therefor, in the order of the date of their applications, up to the limit of the capacity of its local telephone exchange, and should the demand for the telephone service at any time increase beyond the capacity thereof, the grantee shall increase the same to meet such demand: *Provided,* That in case the total demand to be satisfied by the expansion is less than the smallest viable local exchange available in the market as determined by the Commission, the grantee shall not be obliged to furnish such service unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunications apparatus necessary for such services and in such case, the Commission may extend the time within which the grantee shall furnish such service.

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 a satisfactory manner at all times, and as far as economical and practicable, modify, improve or change such station, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

SEC. 6. *Rates for Services.* — The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as nonregulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the Commission or its legal successor. The rates to be charged by the grantee shall be unbundled, separable and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidize the unregulated ones.