

[Act No. 3913, November 28, 1931]

AN ACT GRANTING TO DAVAO TELEPHONE COMPANY A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN A TELEPHONE SYSTEM IN THE PROVINCE OF DAVAO AND ANY MUNICIPALITY OR MUNICIPALITIES THEREOF.

Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Subject to the conditions established in this Act and the provisions of Act Numbered Thirty-one hundred and eight and amendments thereof, applicable thereto, there is hereby granted to Davao Telephone Company, his successors or assigns, for a period of fifty years from the approval of this Act, the right and privilege to construct, maintain and operate in the municipality of Davao and in the municipalities and municipal districts adjoining thereto, in the Province of Davao a telephone system to carry on the business of the electrical transmission of conversations and signals in said province and in and between the municipalities thereof. For this purpose, the grantee is hereby authorized to use all municipal and provincial roads, streets, and public thoroughfares for the construction, maintenance, and operation of all apparatus, conductors, and appliances necessary for the electrical transmission of conversations and signals, to erect poles, string wires, build conduits, lay cables, and to construct, maintain, and use such other approved and generally accepted means of electrical conduction in, on, over, or under the public roads, highways, lands, bridges, streets, lanes, and sidewalks of said province and municipalities, and overhead or underground lines or on the surface of the ground as may be necessary and best adapted to said transmission.

SEC. 2. All poles erected and all conduits constructed or used by the grantee shall be located in places designated by the provincial or municipal authorities, according to whether the road is provincial or municipal: *Provided*, That all poles erected and used by the grantee or its successors shall be of such appearance as not to disfigure the streets, and the wires and cables carried by said poles and the underground cables shall be strung and laid in accordance with professional standards approved by the Public Service Commission; and said poles shall be of such a height as to maintain the wires and cables stretched on the same at a height of at least fifteen feet above the level of the ground, and said wires and cables shall be so placed as not to imperil the public safety, in accordance with a plan approved by the Public Service Commission: *Provided, further*, That whenever twenty-five or more pairs of wires or other conductors are carried on one line of poles in any place of the *poblacion* of any municipality of the Province of Davao, said wires or conductors shall be placed in one cable, and that whenever more than eight hundred pairs of wires or other conductors are carried on one line of poles said wires or conductor, shall be placed underground by the grantee, its successors or assigns, whenever ordered so to do by the Public Service Commission.

SEC. 3. For the purpose of erecting and placing the poles or other supports of such wires or other conductors or of laying and maintaining underground said wires, cables or other conductors, 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, alleys, lanes, avenues, sidewalks or bridges in the Province of Davao:

Provided, however, That any public place, highway, street, alley, lane, avenue, sidewalk or bridge disturbed, altered or changed by reason of the erection of poles or other supports, or the laying underground of wires or other conductors, or of conduits, shall be repaired and restored to the satisfaction of the district engineer of the province, and removing from the same all rubbish, dirt, refuse, or other material which may have been placed there or taken up in the erection of said poles or the laying of said underground conduits, leaving them in as good condition as they were before the work was done.

SEC. 4. Whenever any person has obtained permission to use any of the streets of said municipalities for the purpose of removing any building or in the prosecution of any municipal work or for any other cause whatsoever, making it necessary to raise or remove any of said wires or conduits which may obstruct or hinder the prosecution of said work, the said grantee, upon notice by the municipal council of the municipality concerned, served upon said grantee at least forty-eight hours in advance, shall raise or remove any of said wires or conduits which may hinder the prosecution of such work or obstruct the removal of said building, so as to allow the free and unobstructed passage of said building and the free and unobstructed prosecution of said work, and the person or entity at whose request the wires or poles or other structures have been removed, shall pay one-half of the actual cost of replacing the poles or raising the wires and other conductors or structures. The notice shall be in form of a resolution duly adopted by the municipal council and served upon the grantee or its duly authorized representative or agent by a person competent to testify as witness in a civil action, and in case of refusal or failure of the grantee to comply with such notice, the municipal president concerned, with the proper approval of the municipal council first had, shall order such wires or conduits to be raised or removed at the expense of the grantee, for the purposes aforesaid.

SEC. 5. All apparatus and appurtenances used by the grantee, its successors or assigns shall be modern and first class in every respect, and all telephone lines or installations used, maintained and operated in connection with this franchise by the grantee, its successors or assigns shall be kept and maintained at all times in a satisfactory manner, so as to render an efficient and adequate telephone service, and it shall be the further duty of said grantee, its successors or assigns, whenever required to do so by the Public Service Commission to modify, improve, and change such telephone system for the electrical transmission of conversations and signals by means of electricity in such manner and to such extent as the progress of science and improvements in the method of electrical transmission of conversations and signals by means of electricity may make reasonable and proper.

SEC. 6. The grantee, his successors or assigns, shall keep a separate account of the gross receipts of their telephone receipts-business in each municipality of the province, and shall furnish to the Insular Auditor and the Insular Treasurer a copy of such account not later than the thirty-first day of July of each year for the twelve months preceding the first day of July.

SEC. 7. The grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition, the grantee, his successors or assigns, shall pay to the Insular Treasurer each year, within ten days after the audit and approval of the accounts as prescribed in section six of this Act, one per centum of all gross receipts of the telephone

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 its earnings,

SEC. 8. Within sixty days from the approval of this Act, the grantee shall file with the Public Service Commission his application for a certificate of public necessity and convenience. In case of failure to make said application within the period established, this franchise shall become null and void.

SEC. 9. The grantee shall not commence any construction whatever pursuant to this franchise without first obtaining a certificate of public necessity and convenience from the Public Service Commission of the form and character provided for in Act Numbered Thirty-one hundred and eight, as amended, specifically authorizing such construction. 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 Public Service Commission. The Public Service Commission shall have the power to issue such certificate of public necessity and convenience whenever it shall, after due hearing, determine that such construction or such exercise of the rights and privileges under this franchise is necessary and proper for the public convenience, and the Commission shall have the power in so approving to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require, and such certificate shall state the date on which the grantee shall commence construction and the period within which the work shall be completed. In order to avail itself of the rights granted by such certificate of public necessity and convenience, the grantee shall file with the Public Service Commission, within such period as said Commission shall fix, its written acceptance of the terms and conditions of this franchise and of the certificate, together with the document evidencing the fact that the deposit required in section ten has been made. In the event that the grantee shall not commence the telephone service referred to in the certificate obtained and filed as herein provided within such period as the Public Service Commission shall have fixed, said Commission may declare said certificate null and void and the deposit made pursuant to section ten of this Act forfeited to the Insular Government unless the grantee shall have been prevented from doing so by fortuitous cause or *force majeure*, usurped or military power, martial law, riot, uprising, or other inevitable cause: *Provided, however*, That if the grantee shall have been prevented by one or more of all such causes for commencing the telephone service within the period specified, the time during which it shall have been so prevented shall be added to said period: *Provided, further*, That failure on the part of the grantee to accept the conditions of this franchise and those imposed in the certificate of public necessity and convenience shall automatically avoid this franchise.

SEC. 10. Upon the written acceptance of the terms and conditions of this franchise, the grantee shall deposit in the Insular Treasury one thousand pesos, or negotiable bonds of the United States or other securities approved by the Secretary of Commerce and Communications, of the face value of one thousand pesos, as an earnest of good faith in accepting this franchise and a guaranty that, within six months from the date of the granting by the Public Service Commission of a certificate of public necessity and convenience authorizing the construction and operation by the grantee of a telephone service in any municipality or municipalities of the Province of Davao the grantee, its successors or assigns will be completely provided with the necessary equipment and ready to begin operation in accordance with the terms of this franchise: *Provided*, That if the deposit is made in money the