

[Act No. 3647, December 07, 1929]

AN ACT GRANTING TO MOISES ITURRALDE A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, AND POWER SYSTEM IN THE MUNICIPALITY OF PASSI, PROVINCE OF ILOILO, PHILIPPINE ISLANDS.

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, there is hereby granted to Moises Iturralde, hereinafter known as the grantee, for a period of fifty years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat and power, for sale within the limits of the municipality of Passi, Province of Iloilo, Philippine Islands. The grantee shall further have the right and privilege to install, lay, and maintain in, along, under, and over all public property of the municipality, including the public streets and highways, provincial roads, bridges, and public squares within said municipality all necessary apparatus and appurtenances for the transmission and distribution of electric current, and to supply, sell, and furnish such current to any individual, copartnership, private, public, or quasi-public association, corporation, or joint-stock company, within the limits of said municipality for insular, provincial, municipal, domestic, or manufacturing uses, or for any other use to which electricity may be put, and to charge and collect a schedule of prices and rates for the use of electric current so furnished, which schedule of prices and rates shall at all times be subject to regulation by the Public Service Commission or its legal successor.

SEC. 2. Said grantee shall supply electric power, and or heat, and or light to any applicant for the same within fifteen days after the date of his application, in the order of the date of his application up to the limit of the capacity of the plant of said grantee, said limit to be determined by the Public Service Commission or its legal successor in such certificate of public necessity and convenience as may be issued by it as prescribed by section eight of this Act; and should the demand for electric power, and or heat, and or light at any time increase beyond the capacity of the plant of said grantee to supply the same, the capacity of said plant shall be increased by said grantee to such reasonable extent and within such reasonable time as may be fixed by the Public Service Commission or its legal successor. If, however, the point at which the electric power, and or heat, and or light is to be supplied is more than thirty meters from the lines operated by said grantee, the latter shall not be obligated to furnish said service, except upon the receipt of such additional prices and rates as the Commission, or its legal successor, may determine to be just and reasonable.

SEC. 3. The grantee hereby agrees to compensate the municipality for any damage to its property by reason of the construction under this franchise or of any neglect or omission to keep the said poles, wires and other property in a safe condition, and to be responsible for any damage to individuals, copartnerships, private, public, or quasi-public associations, corporations, or joint-stock companies, arising out of such fault, neglect or negligence.

SEC. 4. All apparatus and appurtenances used by the grantee shall be modern, safe, and first class in every respect. All wires shall be carefully connected, fastened, and insulated, and the grantee shall, whenever the Public Service Commission or its legal successor shall determine that the public interest reasonably requires it, place said wires in underground pipes or conduits at its own expense, and without any cost or prejudice to the municipality. The poles erected by the grantee shall be of such a height as to maintain the wires stretched on the same at a distance of at least twenty feet above the level of the ground, and shall be of such appearance as not to disfigure the streets, and shall be placed with due regard for the public safety, in accordance with a plan previously approved by the municipal authorities concerned.

SEC. 5. Whenever it shall, in the opinion of the Public Service Commission or its legal successor, become necessary in the public interest or convenience, to change the location of the grantee's poles, underground pipes or conduits, such change shall be made without delay by the grantee, his successors or assigns, at the grantee's expense, and the same shall be placed where directed by the proper municipal authorities.

SEC. 6. Whenever it shall be necessary in the erection of said poles, or in the placing of said wires in underground pipes or conduits, to take up any portion of the sidewalks or dig up the ground near the sidewalks or corners of the public streets or thoroughfares, the grantee shall, after said poles or underground pipes or conduits are constructed, replace without delay said sidewalks and other property in a proper manner, removing from the same all rubbish, dirt, refuse, or other material which may have been placed there, taken up or dug up in the erection of said poles, underground pipes or conduits, leaving all property in as good condition as before the work was done.

SEC. 7. Whenever any individual, copartnership, private, public or quasi-public association, corporation or joint-stock company has lawfully obtained permission to use any of the public property of said municipality, including the public streets and highways, provincial roads, bridges, and public squares, for any cause whatsoever, making it necessary to raze or remove any of said poles, and or electric wires, and or pipes, which may hinder or obstruct the prosecution of said work, the said grantee, upon written notice by the municipal council of said municipality, served upon the grantee in person or upon his duly authorized agent at least forty-eight hours in advance, shall raze or remove any of his poles, and or wires, and or conduits, and or pipes which might hinder or obstruct the prosecution of said work so as to allow the free and unobstructed prosecution of said work. The notice shall be in the form of a duly adopted resolution of the municipal council concerned, served upon the grantee or his duly authorized agent by a person competent to testify in a civil action. The individual copartnership, private, public, or quasi-public association, corporation, or joint-stock company at whose request the razing or removing of said poles, and or electric wires, and or conduits, and or pipes has been done shall pay one-half of the actual cost thereof to the grantee, and also one-half of the actual cost of their replacement. In case of the refusal or failure of the grantee to comply with such notice, the municipal president concerned, with the approval of the municipal council first had, shall order such poles, and or electric wires, and or conduits, and or pipes razed or removed at the sole expense of said grantee.

SEC. 8. If the grantee does not file the proper application for a certificate of public necessity and convenience with the Public Service Commission, or its legal successor within ninety days from the date of approval of this Act, this franchise shall become null and void.

The grantee shall not exercise any rights or privileges under this franchise nor commence any construction thereunder unless and until the grantee shall first file with the Public Service Commission, or its legal successor, within one hundred and twenty days from the date of issuance by the Public Service Commission of the said first certificate of public necessity and convenience:

(1) His written acceptance of the terms and provisions of this Act; together with

(2) His written acceptance of the terms and conditions of the first certificate of public necessity and convenience issued by the Public Service Commission, or its legal successor, of the form and character provided for in Act Numbered Three thousand one hundred and eight, as amended, specially authorizing said construction; together with

(3) A document evidencing receipt of the deposit required by section nine of this Act by the Insular Treasurer.

The Public Service Commission or its legal successor shall have power to issue certificates of public necessity and convenience whenever it shall, after due hearing, determine that such construction or the exercise of the rights or privileges under this franchise is necessary and proper for the public convenience and properly conserves the public interest, and the Commission or its legal successor shall have the power in so acting to impose all such conditions as to construction, equipment, maintenance or operation of the service as the public convenience and interests may reasonably require.

If the grantee shall not commence the furnishing of electric current in any municipality referred to in any certificate of public necessity and convenience obtained and filed as herein provided within such period as the Public Service Commission or its legal successor shall have fixed, unless prevented by act of God or *force majeure*, usurped or military power, martial law, riot, civil commotion, or other cause beyond his control, said Commission or its legal successor may in its discretion declare such certificate to be null and void, and the deposit made by the grantee as hereinafter provided in section nine forfeited to such municipality as liquidated damages and not as a penalty.

SEC. 9. For every certificate of public necessity and convenience obtained by him, the grantee shall be required by the Public Service Commission or its legal successor to make a deposit of not less than one thousand pesos, Philippine currency, or negotiable bonds of the United States or other securities approved by the Public Service Commission or its legal successor of a face value of not less than one thousand pesos, Philippine currency, such deposit to be made in the Insular Treasury, within a period to be fixed by the Public Service Commission or its legal successor as an earnest of good faith and a guaranty that the grantee will begin and complete the work within the period fixed by the Commission, or its legal successor, and be completely provided with the necessary equipment therefor, and ready to begin operation of the light, heat, and power service in the municipality concerned