

[Act No. 3419, December 07, 1927]

AN ACT GRANTING TO THE SURIGAO ELECTRIC COMPANY A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, AND POWER SYSTEM IN THE MUNICIPALITY OF SURIGAO, PROVINCE OF SURIGAO, 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 and the provisions of Act Numbered Thirty-one hundred and eight and its amendments, applicable thereto, there is hereby granted to the Surigao Electric Company, 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 Surigao, Province of Surigao, Philippine Islands. The grantee shall further have the right and privilege to install, lay, and maintain on all the streets, public thoroughfares, bridges, and public places within said limits, poles, conductors, interrupters, transformers, cables, wires, and other overhead appliances, and all other necessary apparatus and appurtenances for the furnishing and distribution of electric current and to supply, sell, and furnish such current to any person, corporation, or public or private concern within said limits for provincial, municipal, domestic or manufacturing uses and for any other use to which electricity may be put, and to charge and collect a schedule of prices and conventional rates for the use of same: *Provided*, That this franchise shall not take effect until the grantee shall have obtained from the Public Service Commission a certificate showing the public necessity and convenience of the same, in accordance with the purpose of subsection (i) of section fifteen of Act Numbered Thirty-one hundred and eight, as amended, and shall have filed such certificate with the Secretary of Commerce and Communications upon accepting this franchise: *And provided, further*, That if the grantee does not file the proper application for said certificate with the Public Service Commission within three months from the date of the approval of this Act, this franchise shall become null and void.

SEC. 2. 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 so as not to be a danger for the same, in accordance with a plan approved by the provincial or municipal authorities concerned, represented by the provincial governor or the municipal president, as the case may be, and said grantee shall supply electric power, heat, and light to any applicant for the same, within fifteen days after the date of his application, and as between such applicant and other like applicants, in the order of the date of his application, up to the limit of the capacity of the plant of said grantee, to be determined by the electrical engineer of the Public Service Commission on the application of said grantee, and should the demand for electric power, heat, and 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 meet such demand, in accordance with the decision of the Public Service Commission or its

legal successors: *Provided, however,* That in case the point at which the electric light, heat, or power is to be supplied, is more than thirty meters from the lines or wires operated by said grantee, the latter shall not be obliged to furnish said service.

SEC. 3. All apparatus and appurtenances used by the grantee shall be modern and first class in every respect, and said wires shall be insulated and carefully connected and fastened so as not to come in direct contact with any object through which a "ground" could be formed, and shall be stretched so as not to interfere with the free use of said streets and public thoroughfares nor cause any injury to the public, danger of fire, or damage and inconvenience to the owners of property: *Provided,* That in the maintenance and operation of its plant and system for the transmission and distribution of electric current, the grantee shall always be subject to such reasonable regulations as the municipal council of Surigao and the provincial board of Surigao may promulgate in the premises, and also to the regulations prescribed by the National Electrical Code of America: *Provided,* That the grantee shall, whenever the Philippine Legislature, upon recommendation of the Public Service Commission or its legal successor, so directs, place said wires in underground pipes or conduits at its own expense, and without any cost and prejudice to the municipality above mentioned.

SEC. 4. Whenever it shall be necessary in the erection of said poles to take up any portion of the sidewalks or dig up the ground of the public streets or thoroughfares, then the said grantee shall, after said poles are erected, without delay replace said sidewalks in the proper manner or arrange said streets or public thoroughfares, 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, leaving them in as good condition as they were before the work was done; and whenever it shall become necessary, by reason of the extension of roads determined upon by the provincial board of Surigao, or by reason of the extension of streets or plazas determined upon by the municipal council of the municipality above mentioned to change the location of said poles, such change shall be made by the grantee, its successors or assigns, at their expense, without delay, and said poles shall be placed where directed by said provincial board or said municipal council.

SEC. 5. Whenever any person has obtained permission to use any of the streets or public thoroughfares of the an municipality above mentioned for the purpose of removing any building or in the prosecution of any municipal work or for any other just cause whatsoever, making it necessary to raise or remove any of said poles or electric wires which may obstruct the removal of said building or hinder the prosecution of said work, the said grantee, upon written notice by the municipal president of said municipality served upon said grantee at least forty-eight hours in advance, shall raise or remove any of said wires 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 building has been moved or the construction undertaken, shall pay one-half of the actual cost of removing or raising and of replacing the poles, wires, and other overhead or underground conductors. The notice shall be served in the usual form, and in case of the refusal or failure of the grantee to comply with such notice, said municipal president, with the proper approval of the municipal council first had, shall order such or wires to be raised or removed at the expense of said grantee, for the purpose aforesaid:

Provided, however, That the grantee may appeal from any such decision to the provincial board of Surigao, whose decision shall be final.

SEC. 6. The grantee shall be liable to the municipality above named for any injury arising from any claims caused by accidents to person or property by reason of the construction under this franchise or of any neglect or omission to keep the said poles and wires in a safe condition.

SEC. 7. Said grantee shall file its written acceptance of this franchise with the Secretary of Commerce and Communications within one hundred and twenty days from the date when it obtained the certificate required by section one of this Act and shall commence work under the supervision and subject to the approval of the electrical engineer of the Public Service Commission, in accordance with the plan, specifications, and estimates previously approved by the Public Service Commission, within six months' time from and after the date of filing such acceptance, unless prevented by act of God or *force majeure*, usurped or military power, martial law, riot, or civil commotion or other inevitable cause, and shall complete the system and have the same in operation within eighteen months from the date of such acceptance, and shall thereafter maintain a first-class electric light, heat, and power service: *Provided,* That in consideration of the franchise hereby granted, the grantee shall pay quarterly into the municipal treasury of the municipality above named, one per centum of the gross earnings of its electrical business during the first thirty years, and two per centum during the remaining twenty years of the life of this franchise.

SEC. 8. The concession of the right, privilege, and authority mentioned in the preceding sections shall not take effect unless the grantee accepts in writing, as a part of this concession, the following condition:

That the grantee, its successors, and assigns shall, upon accepting this franchise, state in writing that they are aware of the aspiration of the Philippine people to become a free and independent nation and that said grantee and its successors and assigns bind themselves not to engage in or aid, by means of contributions in cash or otherwise, any move directed against said aspiration.

SEC. 9. Upon the acceptance of this franchise as provided in section seven, the grantee shall deposit in the Insular Treasury or with any of its agents in the Province of Surigao 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 and a guarantee that it will begin the electric light, heat, and power business and may be completely provided with the necessary equipment therefor and ready to begin operation in accordance with the terms of this franchise: *Provided, however,* That if such deposit is in cash, it may be made in some official depository of the Government in the name of the grantee and subject to the order of the Insular Treasurer, who shall retain the evidence of the deposit so made. In this case, as well as in the case of the deposit being made in negotiable bonds or other securities, as provided in this section, the interest of the cash deposit or of the bonds or securities deposited, if any, shall belong to the grantee.

In case such grantee shall fail, refuse, or neglect, unless prevented by fortuitous cause or *force majeure*, the public enemy, usurped or military power, martial law, riot, civil commotion, or other inevitable cause, to commence the work for the