

H. No. 8302

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand eighteen.

[REPUBLIC ACT NO. **11212**]

AN ACT GRANTING MORE ELECTRIC AND POWER CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN, FOR COMMERCIAL PURPOSES AND IN THE PUBLIC INTEREST, A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE CITY OF ILOILO, PROVINCE OF ILOILO, AND ENSURING THE CONTINUOUS AND UNINTERRUPTED SUPPLY OF ELECTRICITY IN THE FRANCHISE AREA

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 MORE Electric and Power Corporation, hereunder referred to as the grantee, its successors

or assignees, a franchise to establish, operate, and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to end users in the City of Iloilo.

As used in this Act, distribution system refers to the system of wires and associated facilities including subtransmission lines belonging to or used by a franchised distribution utility extending between the delivery point on the national transmission system or generating facility and the metering point or facility of the end-user.

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, to continuously improve its facilities and employ the latest technology and innovations that promote efficiency and is beneficial to consumers. It shall comply with the standards set by the Energy Regulatory Commission (ERC) such as those found in the Philippine Distribution Code, its resolutions, and other issuances. The grantee shall also implement measures required by the ERC, the Department of Energy (DOE), or their legal successors, or any other government agency concerned, to modify, improve, upgrade, and change such facilities, systems, or the management and maintenance thereof.

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 to the grantee considering costs incurred to accommodate and administer the use of the grantee's facilities by such parties. The ERC shall resolve cases of dispute or disagreement between and among parties.

SEC. 3. Authority of the Energy Regulatory Commission. – The grantee shall secure from the ERC or any other government agency which has jurisdiction over the operation of the herein grantee, 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 units (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 costs 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 is required to source and procure its power requirements in accordance with the applicable rules and orders of the ERC: *Provided, That,* the grantee, immediately after the enactment of this Act, may be allowed to avail of the negotiated procurement of emergency power supply under the DOE circular DC 2018-02-0003, as revised, or any subsequent circular, rule or regulation issued by the DOE or ERC or their legal successors

allowing emergency procurement: *Provided, further,* That such emergency contract, shall only be for a period of one (1) year and the rates must not be higher than the latest ERC-approved generation tariff for the same or similar technologies in the area.

The grantee shall have the obligation to provide open and non-discriminatory 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.

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.

The grantee shall strictly comply with the system loss cap prescribed by the ERC.

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.

The grantee shall reduce the duration and frequency of interruptions in its network and in that regard, shall observe the System Average Interruption Frequency Index (SAIFI) and System Average Interruption Duration Index (SAIDI) imposed by the ERC.

SEC. 8. *Election of Independent Directors.* – The Board of the grantee shall have independent directors constituting at least twenty percent (20%) of its total membership. These directors must be elected by a majority of the total number of outstanding shares entitled to vote.

An independent director is a person who, apart from shareholdings and fees received from the corporation, is independent of management and free from any business or other relationship which could, or could reasonably be perceived to materially interfere with the exercise of independent judgment in carrying out the responsibilities as a director.

SEC. 9. *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 they shall be so operated.

SEC. 10. *Right of Eminent Domain.* — Subject to the limitations and procedures prescribed by law, the grantee is authorized to exercise the power of eminent domain insofar as it may be reasonably necessary for the efficient establishment, improvement, upgrading, rehabilitation, maintenance and operation of its services. The grantee is authorized to install and maintain its poles wires, and other facilities over, under, and across public property, including streets, highways, parks, 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, including, but not limited to poles, wires, cables, transformers, switching equipment and stations, buildings, infrastructure, machineries and equipment previously, currently or actually used, or intended to be used, or have been abandoned, unused or underutilized, or which obstructs its facilities, for the operation of a distribution system for the conveyance of electric power to end users in its franchise area: *Provided*, That proper expropriation proceedings shall have been instituted and just compensation paid:

Provided, further, That upon the filing of the petition for expropriation, or at any time thereafter, and after due notice to

the owner of the property to be expropriated and the deposit in a bank located in the franchise area of the full amount of the assessed value of the property or properties, the grantee shall be entitled to immediate possession, operation, control, use and disposition of the properties sought to be expropriated, including the power of demolition, if necessary, notwithstanding the pendency of other issues before the court, including the final determination of the amount of just compensation to be paid. The court may appoint a representative from the ERC as a trial commissioner in determining the amount of just compensation. The court may consider the tax declarations, current audited financial statements, and rate-setting applications of the owner or owners of the property or properties being expropriated in order to determine their assessed value.

SEC. 11. *Term of Franchise.* – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner cancelled or revoked. This franchise shall be deemed *ipso facto* revoked in the event that the grantee fails to operate continuously for two (2) years.

SEC. 12. *Renewal, Extension, or Revocation of Franchise.* – The grantee shall apply for the renewal or extension of its franchise five (5) years before its expiration date which shall be reckoned fifteen (15) days after the publication of the franchise in the *Official Gazette* or in a newspaper of general circulation, whichever comes earlier.

This franchise may be revoked by Congress when the public interest so requires or when the grantee fails to reasonably comply with regulatory standards.

SEC. 13. *Warranty in Favor of the National and Local Governments.* – The grantee shall hold the national, provincial, city, and municipal governments of the Philippines free from all claims, liabilities, demands, or actions arising out of accidents that cause injury to persons and damage to properties, during the construction, installation, operation, and maintenance of the distribution system of the grantee.

SEC. 14. *Liability for Damages.* – The grantee shall be liable for any injury to persons and damage to property arising from or caused by any accident arising from any defective construction of any infrastructure built pursuant to the operation

of its business under this franchise, or by any neglect or failure to keep its poles and wires in safe condition.

SEC. 15. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* — The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor shall transfer the controlling interest of the grantee, whether as a whole or in part, and whether simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines and compliance with legal requirements stipulated in other statutes: *Provided, That*, during the period before the dispersal of its ownership under Section 16, the grantee shall notify Congress in writing of any sale or transfer of its shares less than the controlling interest: *Provided, furthermore*, That failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to which this franchise is sold, transferred, or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 16. *Dispersal of Ownership.* — In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to the public, specifically Filipino citizens, at least thirty percent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of its operations: *Provided*, That in cases where a public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented.

In the event the required dispersal of ownership is not implemented within five (5) years, the holdings of persons, natural or juridical, including directors, officers, stockholders, and related interests, in the grantee and its respective holding company, if any, shall not exceed twenty-five percent (25%) of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange.

Non-compliance therewith shall render the franchise *ipso facto* revoked.

SEC. 17. *Transition of Operations.* – In the public interest and to ensure uninterrupted supply of electricity, the current operator, Panay Electric Company, Inc. (PECO), shall in the interim be authorized to operate the existing distribution system within the franchise area, as well as implement its existing power supply agreements with generation companies that had been provisionally or finally approved by the ERC until the establishment or acquisition by the grantee of its own distribution system and its complete transition towards full operations as determined by the ERC, which period shall in no case exceed two (2) years from the grant of this legislative franchise.

Upon compliance with its rules, the ERC shall grant PECO the necessary provisional certificate of public convenience and necessity (CPCN) covering such interim period. The applicable generation rate shall be the provisional or final rate approved by the ERC.

This provisional authority to operate during the transition period shall not be construed as extending the franchise of PECO after its expiration on January 18, 2019, and it shall not prevent the grantee from exercising the right of eminent domain over the distribution assets existing at the franchise area as provided in Section 10 of this Act. During such interim period, the ERC shall require PECO to settle the full amount which the ERC has directed to refund to its customers in connection with all the cases filed against it.

To reduce the length of the transition period, the ERC and all agencies issuing the requisite licenses shall prioritize all applications relevant to the establishment and operation of the distribution system under its franchise.

The grantee shall, as far as practicable and subject to required qualifications, accord preference to hiring former employees of PECO upon commencement of business operations.

An information dissemination campaign regarding public services and operations of the grantee shall be made to all end-users in the franchise area.

The grantee and PECO shall jointly ensure that employees not hired by the grantee shall receive all separation and/or retirement benefits they are entitled to in accordance with applicable laws.

The DOE shall, during the transition, ensure that there will be uninterrupted supply of electricity in the existing franchise area.

SEC. 18. *Commitment to Provide and Promote the Creation of Employment Opportunities.* – The grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operation: *Provided*, That priority shall be accorded to the residents where their principal office is located: *Provided, further*, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: *Provided, finally*, That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to Securities and Exchange Commission (SEC) annually.

SEC. 19. *Reportorial Requirement.* – The grantee shall submit an annual report to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of the succeeding year.

The annual report shall include an update on the roll-out, development, operation and/or expansion of business; audited financial statements; latest GIS officially submitted to the SEC (if applicable); certification of the ERC on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

A reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the ERC.

The ERC shall, one (1) year from the grant of this franchise, and every five (5) years thereafter, conduct a comprehensive assessment of the grantee's operations and compliance with the conditions imposed hereunder and submit a report thereof to

Congress. The grantee shall transmit to the ERC all information and documents necessary to complete such assessment.

SEC. 20. *Fine.* — Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of Five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the ERC from the delinquent franchise grantee separate from the reportorial penalties imposed by the ERC and the same shall be remitted to the National Treasury.

SEC. 21. *Equality Clause.* — Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted to power distribution franchises, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided*, That the foregoing shall neither apply to nor affect provisions of broadcasting franchises pertaining to the term, the type of service, or the territorial coverage of the franchise.

SEC. 22. *Applicability of Existing Laws.* — The grantee shall comply with and be subject to the provisions of Commonwealth Act No. 146, or the "Public Service Act", as amended, and Republic Act No. 9136.

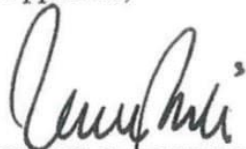
SEC. 23. *Repealability and Nonexclusivity Clause.* — This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 24. *Separability Clause.* — If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 25. *Repealing Clause.* — All laws, decrees, orders, resolutions, instructions and rules and regulations or parts thereof, which are inconsistent with this Act, are hereby deemed repealed or modified accordingly.

SEC. 26. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,


VICENTE C. SOTTO III
President of the Senate


GLORIA MACAPAGAL-ARROYO
*Speaker of the House
of Representatives*

This Act which originated in the House of Representatives was passed by the House of Representatives and the Senate on December 11, 2018.


MYRA MARIE D. VILLARICA
Secretary of the Senate


DANTE ROBERTO P. MALING
*Acting Secretary General
House of Representatives*

Approved: FEB 14 2019


RODRIGO ROA DUTERTE
President of the Philippines

