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TITLE : AN ACT GRANTING TO THE TELECOMMUNICATIONS TECHNOLOGIES
PHILIPPINES, INCORPORATED, A FRANCHISE TO INSTALL, OPERATE AND
MAINTAIN
TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES AND FOR OTHER
PURPOSES

TEXT :

H. No. 35203

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second
day of July, nineteen hundred and ninety-one.

[REPUBLIC ACT NO. 7617]

AN ACT GRANTING TO THE TELECOMMUNICATIONS
TECHNOLOGIES PHILIPPINES, INCORPORATED, A
FRANCHISE TO INSTALL, OPERATE AND MAINTAIN
TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE
PHILIPPINES AND FOR OTHER PURPOSES

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 on public telecommunications, there is hereby
granted to the Telecommunications Technologies Philippines,

Incorporated, its successors or assigns a franchise to install, operate and maintain telecommunications systems throughout the Philippines including but not limited to the operations of local exchange service or public switched telephone network, public-calling stations, inter-exchange carrier or national toll transmission, value-added or enhanced services intelligent networks, mobile or personal communications services, international gateway facility and paging services; and for the purpose of providing said telecommunication services, to construct, own, operate and maintain telecommunications systems in and between provinces, cities and municipalities of the Philippines, in, on, over, or under lands and waters, as may be necessary and best adapted to the provision of telecommunication services, to contract for telecommunication lines in and between the Philippines and other countries and territories, to use any technology whether digital or analogue, via cable, satellite, microwave, optical fiber, or any transmission medium and with such telecommunication apparatus as may be necessary for the provision of such telecommunication services, and to connect and keep connected its telecommunications system to other telecommunications systems.

SEC. 2. Definition of Terms. - As used in this Act, the following words and/or terms shall be interpreted or defined in this manner:

(a) "Telecommunications system" means the combination of hardware and software for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy of speech and other sounds, visual images, data or signals;

(b) "Telecommunication apparatus means any device or equipment manufactured for use in transmitting or adopted for use in transmitting or receiving anything conveyed by a telecommunications system, and includes any telecommunication lines;

(c) "Telecommunication message" means voice, data, images and anything conveyed through a telecommunications system;

(d) "Telecommunication service" means a service for the conveyance of any telecommunication message of and by the general public or customer and includes a directory information service and the installation, maintenance, adjustment, repair, relocation or replacement of telecommunication apparatus, excluding the broadcasting of any telecommunication message the purpose of which is to advertise any product or service other than the use of the telecommunication service itself;

(e) "Telephone service" means a telecommunication service consisting of the conveyance primarily of voice and,

secondarily of other forms of messages;

(f) "Telecommunication line" means any wire, cable, tube, pipe, conduit or other similar material, including its casing or coating, which is designed or adapted to function as a telecommunication apparatus; and

(g) "Local telephone exchange" means a central switching facility or a telecommunication apparatus which routes calls through the network or system.

SEC. 3. Authority of the National Telecommunications Commission. - The grantee shall secure from the National Telecommunications Commission, hereinafter referred to as the Commission, a certificate of public convenience or appropriate permits and licenses for the location, construction, installation and operation of its telecommunications systems. 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 systems. 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.

SEC. 4. Responsibility to the Public. - The grantee shall provide basic or enhanced telephone service in any municipality in the Philippines where it has an approved certificate of public convenience 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 may be determined by the Commission, the grantee shall not be obliged to furnish said service, unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunication apparatus necessary for such services and in such cases 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 stations, lines, cables, systems and equipment to keep abreast with the

advances in science and technology.

SEC. 5. Eminent Domain. - The grantee may acquire such private property as is actually necessary for the realization of the purposes for which this franchise is granted: Provided, That in case the owner refuses to sell or allow thereof, the proper condemnation proceedings shall be instituted: Provided, further, That just compensation is paid.

SEC. 6. Ingress and Egress. - For the purpose of installing, operating and maintaining its telecommunication lines, it shall be lawful for the grantee to make excavations or lay conduits in any of the public places, highways, streets, lanes, sidewalks, bridges or infrastructure in any provinces and municipalities: Provided, however, That any public place, highway, street, lane, sidewalk, bridge or infrastructure disturbed, altered, or changed thereby shall be repaired and replaced in a workmanlike manner by the grantee to the satisfaction of the Department of Public Works and Highways or the local engineering office, as the case may be, and/or in accordance with existing laws or rules on excavations and reconstitution of such public civil works.

SEC. 7. Interconnection. - The grantee is authorized to connect or demand connection of its telecommunications systems to any other telecommunications systems installed, maintained and operated by any other duly-authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunication services to the public, under such terms and conditions mutually agreed upon by the interconnection and the same shall be subject to the review or modification of the Commission.

SEC. 8. Equality Clause. - If any subsequent franchise for telecommunication service is awarded or granted by the Congress of the Philippines with terms, privileges and conditions more favorable and beneficial than those contained in this Act, then the same privileges or advantages shall, ipso facto, accrue to the herein grantee and be deemed part of this Act.

SEC. 9. Sale, Lease, Transfer, Usufruct, etc. - The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or entity, nor merge with any other corporation or entity without the prior approval of the Congress of the Philippines. Neither shall the controlling interest in the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which this franchise is validly sold,

transferred or assigned shall be subject to all the same conditions, terms, restrictions and limitations of this Act.

SEC. 10. Tax Provisions. - The grantee shall be liable to pay the same taxes on their real estate, buildings and personal property exclusive of this franchise, as other persons or telecommunication entities are now or hereafter may be required by law to pay. In addition thereto, the grantee shall pay to the Bureau of Internal Revenue each year, three per centum (3%) of the gross receipts of its regulated telecommunication services transacted under this franchise, and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: Provided, That the grantee shall continue to be liable for income taxes payable under Title 11 of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

SEC. 11. Rates for Services. - The tariffs and rates for telephone service and other types of telecommunication services of the grantee except the rates and charges on those that may hereafter be declared or considered as non-regulated services, whether flat rates or measured rates or variation thereof, shall be effective only after approval of the Commission. 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.

SEC. 12. Dispersal of Ownership. - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer at least thirty per centum (30%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law in any securities exchange in the Philippines within two (2) years from the effectivity of this Act.

SEC. 13. Term of Franchise. - This franchise shall be for a period of twenty-five (25) years from the date of effectivity of this Act unless sooner revoked or cancelled. In the event that the grantee fails to operate continuously for two (2) years, this franchise shall be deemed ipso facto revoked.

SEC. 14. Acceptance of Franchise. - Within sixty (60) days after the effectivity of this Act, the grantee shall file with the Secretary of Transportation and Communications its written acceptance of this franchise and of all the terms and conditions hereof. In default of such acceptance within the said time, this franchise shall become null and void. As a guaranty that it has accepted this franchise in good faith, the grantee shall, within thirty (30) days from the granting of its first certificate of public convenience, deposit with the National Treasury the sum of One hundred thousand pesos

(P100,000) in cash or negotiable instruments of the Philippine Government and file a bond in the amount of One million pesos (P1,000,000).

Should the grantee fail, refuse or neglect to begin the business of providing a telephone service within two (2) years of the grant of the certificate of public convenience and for any reason other than an act of God, act of the public enemy, military power, martial law, riot, civil commotion, or unavoidable cause, then the deposit prescribed under this section shall be forfeited in favor of the National Government as liquidated damages. Should the grantee perform on time the undertaking for which the deposit is required, then the deposit shall be returned to the grantee and its bond cancelled within six (6) months of commencement of service.

SEC. 15. Filing of Application with the Commission. -Within six (6) months after the effectivity of this Act, the grantee shall file an application with the Commission for a certificate of public convenience authorizing it to construct, operate and maintain a telecommunications system and to offer the corresponding telecommunication service in such municipalities as it may deem in need of such service. Failure to file such an application for any reason other than force majeure or acts of God shall render this franchise void.

SEC. 16. Warranty. - The grantee shall hold the national, provincial, city and municipal governments harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the installation and operation of the telecommunications systems of the grantee.

SEC. 17. Right of Government. - In the event of war, rebellion, insurrection or similar national crisis and the Government shall find it necessary to operate and maintain for itself any or all of the telecommunication apparatus and system herein authorized, the grantee shall temporarily turn over such facilities or apparatus to the Government in exchange for payment of just and reasonable compensation for the use thereof.

The Government shall have the privilege of using without compensation the poles of the grantee to attach and to install, maintain and operate wires of its telegraph system, traffic signals, police and fire alarm system: Provided, That the wires shall be placed and strung in such manner as to cause no interference with or damage to the wires or the telephone service of the grantee.

SEC. 18. Relationship with the Municipal Telephone Act of 1990. - The grantee shall be deemed qualified to participate

as an existing private carrier in the installation, operation and maintenance of public-calling stations as provided for under Section 5 of Republic Act No. 6849, the deadline imposed by such section in the aforesaid law notwithstanding.

SEC. 19. Alteration of Repeal of Franchise. - This franchise shall be subject to amendment, alteration or repeal by the Congress of the Philippines. All lands or rights of use or occupation of lands secured by virtue of this franchise shall revert upon its termination to the national, provincial or municipal governments concerned which were the owners thereof upon the date on which this franchise was granted.

SEC. 20. Alteration or Repeal of Franchise. - This franchise shall be subject to amendment, alteration or repeal by the Congress of the Philippines. All lands or rights of use or occupation of lands secured by virtue of this franchise shall revert upon its termination to the national, provincial or municipal governments concerned which were the owners thereof upon the date on which this franchise was granted.

SEC. 21. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved,

	NEPTALI A. GONZALES	RAMON V.
MITRA	President of the Senate	Speaker of the House of Representatives

This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on January 16, 1992 and February 3, 1992, respectively.

	ANACLETO D. BADOY, JR.	CAMILO L.
SABIO	Secretary of the Senate	Secretary General House of Representatives

Approved: June 25 1992

CORAZON C. AQUINO
President of the Philippines