

REPUBLIC ACT NO. 7961

AN ACT GRANTING TO CRUZ TELEPHONE COMPANY, INC. (CRUZTELCO), A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN A TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES

*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 the Cruz Telephone Company, Inc. (CRUZTELCO), its successors or assigns and hereunder referred to as the grantee, for a period of twenty-five (25) years from the approval of this Act, the right, privilege, and authority to carry out the business of providing telecommunications services in and between provinces, cities, and municipalities in the Philippines and for this purpose, to establish, operate, manage, lease, maintain and purchase telecommunications systems, including mobile, cellular and wired or wireless telecommunications systems, fiber optics, satellite transmit and receive systems, and other telecommunications systems and their value-added services such as, but not limited to, transmission of voice, data, facsimile, control signals, audio and video, information service bureau, and all other telecommunications systems technologies as are at present available or will be made available through technical advances or innovations in the future, or construct, acquire, lease and operate or manage transmitting and receiving stations and switching stations, for local services, lines, cables or systems, as is, or are, convenient or essential to efficiently carry out the purpose of this franchise.

SEC. 2. *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. In issuing the certificate, 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. The Commission, however, shall not unreasonably withhold or delay the grant of any such certificate/authority.

SEC. 3. *Responsibility to the Public.* – The grantee shall provide telephone service in any municipality, city or province in the Philippines where it has approved certificate of public convenience for the establishment, operation and maintenance of a local exchange service, without discrimination to any applicant thereof, in the order of the date of their applications.

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 modify, improve or change such stations, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

SEC. 4. *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 the use thereof, the proper proceedings shall be instituted: *Provided, further*, That just compensation is paid.

SEC. 5. *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, cities and

municipalities: *Provided, however,* That any public place, highway, street, lane, sidewalk, bridge or infrastructure disturbed, altered, or changed thereby, the same shall be repaired and placed 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 reconstitution of such public civil works.

SEC. 6. *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 telecommunications services to the public, under such terms and conditions mutually agreed upon by the parties and the same shall be subject to the review or modification of the Commission.

SEC. 7. *Equality Clause.* – If any subsequent franchise for telecommunications 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. 8. *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 corporation or entity, except where the grantee is the surviving corporation, without the prior approval of the Congress of the Philippines. Any person or entity to which the franchise herein granted is validly sold, transferred or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 9. *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 corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall

pay a franchise tax equivalent to three percent (3%) of all gross receipts of the 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 earnings thereof: *Provided*, That the grantee, its successors or assigns shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code. The grantee shall file the return with and pay the tax due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code, and the return shall be subject to audit by the Bureau of Internal Revenue.

SEC. 10. *Rates of Service.* – The tariffs and rates for telephone service and other types of telecommunications services of the grantee except the rates and charges on those that may hereafter be declared or considered as nonregulated 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. 11. *Dispersal of Ownership.* – In adherence with the constitutional mandate, the herein grantee shall comply with the enabling law implementing the democratization of ownership of all public utilities.

SEC. 12. *Acceptance of Franchise.* – Within ninety (90) 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 ninety (90) days, deposit with the National Treasury the sum of One hundred thousand pesos (P100,000) in cash or negotiable instrument of the Philippine Government.

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 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. 13. *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 telecommunications service in such municipalities and cities 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. 14. *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 telecommunication systems of the grantee.

SEC. 15. *Right of Government.* – In the event of war, rebellion, insurrection or similar national crises and the Commission shall find it necessary to operate and maintain for itself any or all of the telecommunications 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.

SEC. 16. *Repealability and Nonexclusivity Clauses.* – 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. 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. 17. *Separability Clause.* – If any section or provision of this Act is held invalid all the other provisions not affected thereby shall remain valid.

SEC. 18. *Reportorial Requirement.* – The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and on its operations within sixty (60) days from the end of every year.

SEC. 19. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved, March 29, 1995.