

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. **11357**]

AN ACT GRANTING SOLAR PARA SA BAYAN CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN DISTRIBUTED ENERGY RESOURCES AND MICROGRIDS IN THE REMOTE AND UNVIABLE, OR UNSERVED OR UNDERSERVED AREAS IN SELECTED PROVINCES OF THE PHILIPPINES TO IMPROVE ACCESS TO SUSTAINABLE ENERGY

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 Solar Para Sa Bayan Corporation, hereunder referred to as the grantee, its successors or assignees, a nonexclusive franchise to construct, install, establish, operate, and maintain in the public interest and for commercial purposes, Distributed Energy Resources and microgrids utilizing renewable energy technology, or a hybrid thereof to provide electric power to customers and

end users in remote and unviable, unserved, or underserved areas as defined in Section 2 of this Act in any of the barangays, municipalities, and cities of the provinces of Aklan, Aurora, Bohol, Cagayan, Camiguin, Capiz, Compostela Valley, Davao Oriental, Guimaras, Isabela, Masbate, Misamis Occidental, Occidental Mindoro, Oriental Mindoro, Palawan and Tawi-Tawi; and in the municipalities and cities of Agoncillo, Alitagtag, Balayan, Balete, Bauan, Calaca, Calatagan, Cuenca, Ibaan, Laurel, Lemery, Lian, Lipa, Lobo, Mabini, Malvar, Mataas na Kahoy, Nasugbu, Padre Garcia, Rosario, San Jose, San Juan, San Luis, San Nicolas, Santa Teresita, Taal, Talisay, Tanauan, Taysan, Tingloy, and Tuy, in the Province of Batangas; and in the municipalities and cities of Agdangan, Alabat, Atimonan, Buenavista, Burdeos, Calauag, Catanauan, General Luna, General Nakar, Guinayangan, Gumaca, Infanta, Jomalig, Lopez, Macalelon, Mulanay, Padre Burgos, Panukulan, Patnanungan, Perez, Pitogo, Plaridel, Polilio, Quezon, Real, San Andres, San Francisco, San Narciso, Tagkawayan, and Unisan, in the Province of Quezon.

SEC. 2. *Definition of Terms.* –

(a) *Distributed Energy Resources* or *DERs* refer to smaller power sources that could be aggregated to provide power necessary to meet regular demand. These may also refer to demand-side and supply-side resources that can be deployed throughout the system of a network service provider to meet the energy and reliability needs of the customers served by the system including, renewable energy facilities, managed loads including electric vehicle charging, energy storage and other measures necessary to incorporate renewable generation resources, including load management and ancillary services, such as reserves, voltage control and reactive power, and black start capabilities.

(b) *Microgrid* refers to a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid. A microgrid can connect from the grid to enable it to operate in both grid-connected or island mode.

(c) *Remote and Unviable Area* refers to a geographical area within the franchise area of a distribution utility where immediate extension of distribution lines is not economically feasible due to the distance away from the nearest facilities.

(d) *Unservd Area* refers to an area with no electricity access, no distribution system lines, no solar PV home systems, or no connection to any microgrid.

(e) *Underserved Area* refers to an area currently served by individual solar home systems, microgrids, or distribution utilities where electricity services are less than twenty-four (24) hours daily, or are noncompliant with any of the service parameters of the Philippine Distribution Code, or where electricity services have been interrupted at least twelve (12) times in the twelve (12) months preceding the date of the determination that such area is underserved, or any other reason resulting in any failing mark based on the latest annual evaluation of actual performance of distribution systems as compared to imposed targets of the Energy Regulatory Commission.

SEC. 3. *Manner of Operation of Facilities.* – All electric facilities, lines, and systems for renewable energy services owned, maintained, operated, or managed by the grantee, its successors or assignees, shall be operated and maintained at all times in the proper and suitable manner. Whenever practicable and for purposes of maintaining order, safety and aesthetics along highways, roads, streets, alleys, or right-of-way, the grantee may allow the use of free spaces in its poles, facilities, or right-of-way 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.

SEC. 4. *Authority of the Energy Regulatory Commission (ERC) and the Department of Energy (DOE).* – The DOE shall determine the remote and unviable, unserved, and underserved areas, in accordance with Sections 1 and 2 of this Act. The grantee shall secure from the ERC, DOE 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 DERs or microgrids, as may be applicable: *Provided, That*

the grantee shall comply with existing rules and regulations promulgated pursuant to Republic Act No. 9136 and Republic Act No. 9513.

SEC. 5. *Ingress and Egress.* – For the purpose of constructing, installing, establishing, operating, and maintaining poles, DERs or microgrids, or any part thereof 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, tunnels, 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 unit (LGU) concerned in accordance with either the Grid Code or the Distribution Code, as the case may be: *Provided, however,* That any public place, road, highway, street, lane, alley, avenue, sidewalk, tunnel, or bridge disturbed, altered, or changed by reason of erection of poles, DERs or microgrids, or any part thereof 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 fifteen (15)-day notice from the said authority, fail, refuse, or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge 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. 6. *Responsibility to the Public.* – The grantee shall operate DERs or microgrids in the least cost manner. In the interest of the public good and as far as feasible, the grantee shall modify, improve, or change its facilities and equipment for the purpose of providing efficient and reliable service and reduced electricity costs. The grantee shall charge reasonable and just power rates as approved by the ERC for its services to all types of consumers in order

that business and industries shall be able to compete. The grantee under this franchise shall be subject to any and all applicable regulatory and applicable rules that govern private and public utilities promulgated by the DOE and the ERC pursuant to Republic Act No. 9136 and Republic Act No. 9513.

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.

SEC. 8. *Rates for Services.* – The retail rate charged by the grantee to end users shall be the true cost and shall not be entitled to any government subsidy. Such retail rate shall be regulated by and subject to the approval of the ERC. The retail rates charged by the grantee to the end users shall be made public and transparent.

The grantee shall identify and segregate in its electricity bill to the end users the components of the retail rate pursuant to Republic Act No. 9136, unless otherwise amended.

The grantee shall implement lifeline rates for marginalized end users as mandated under Republic Act No. 9136.

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 facilities of the grantee 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 facilities during the period when these 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 right of eminent domain insofar as it may be reasonably necessary for the construction, installation, establishment, and efficient operation and maintenance of DERs or microgrids. The grantee is authorized to install and maintain its poles, wires, and other facilities over and across public property, including streets, highways,

forest reserves, 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 needed for the realization of the purposes for which this franchise is granted, including property already devoted to public use or with public character: *Provided*, That this will result in greater benefit for the public: *Provided, further*, That the proper condemnation proceedings shall have been instituted and applicable rules have been complied with.

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. *Effect on Existing Franchise.* – This franchise shall not revoke existing franchises. No waiver of rights from the franchised distribution utilities shall be necessary to operate DERs or microgrids in remote and unviable, unserved, or underserved areas as determined by the DOE, in accordance with Sections 1 and 2 of this Act.

SEC. 13. *Competition in Remote and Unviable, Unserved, and Underserved Areas.* – This franchise shall not affect the duty of the DOE to promote private sector participation in the electrification of remote and unviable, unserved, and underserved areas. Other qualified third parties shall be able to continue to participate in any competitive selection to operate in any remote and unviable, unserved, and underserved areas, as determined by the DOE, in accordance with Sections 1 and 2 of this Act, even without a similar franchise from Congress.

SEC. 14. *Service Obligations.* – The grantee shall aim to provide and ensure full electrification for all or a substantial portion of the connected end users in the localities specified as remote and unviable, unserved, or underserved, subject to such interruptions that may result from the temporary failure of items of the system to which the grantee must act promptly to remedy such failure or require for the repair or construction of the system where such repairs or construction cannot be performed without interruption to the electricity supply.

SEC. 15. *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 lines for electric services of the grantee.

SEC. 16. *Liability for Damages.* – The grantee shall be liable for any injury to persons and damage to property arising from or caused by accident to persons by reason of any defective construction under this franchise or of any neglect or omission to keep its poles and wires in safe condition.

SEC. 17. *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 in areas where its 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 to be submitted to the Securities and Exchange Commission (SEC) annually.

SEC. 18. *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 the controlling interest of the grantee be transferred, simultaneously or contemporaneously, to any such person, firm, company, corporation, or entity, without the prior approval of the Congress of the Philippines. After such approval has been given, Congress shall be informed within sixty (60) days after the completion of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights or privileges acquired thereunder or the merger, or transfer of the controlling interest of the grantee. Failure to report to Congress such change of ownership shall render the franchise *ipso facto*

revoked. 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. 19. *Compliance with Labor Standards.* – The grantee, its successors or assignees shall comply with the applicable labor standards under existing labor laws, rules and regulations and such other issuances as may be promulgated by the Department of Labor and Employment, taking into consideration the nature and peculiarities of the electric power industry.

SEC. 20. *Reportorial Requirement.* – The grantee shall submit an annual report to the ERC, DOE, and Congress of the Philippines, through the Committees on Legislative Franchises and Energy of the House of Representatives and the Committees on Public Services and Energy 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 General Information Sheet officially submitted to the SEC, if applicable; certification of the DOE on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

SEC. 21. *Operationalization.* – The DOE, in consultation with the ERC and other stakeholders, shall promulgate the necessary rules and regulations to operationalize this franchise without compromising grid stability, the rate effect on consumers, the continued viability and sustainability of the grantee's operations, and other technical and financial considerations as determined by the DOE and the ERC, within the framework provided in Republic Act No. 9136: *Provided*, That the grantee shall be authorized to continue to operate in provinces where the grantee has existing operations prior to the promulgation of these rules and regulations.

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

SEC. 22. *Penal Provisions.* – (1) Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of Five thousand pesos (P5,000.00) per working day of noncompliance. The fine shall be collected by the DOE from the delinquent franchise grantee separate from the reportorial penalties imposed by the DOE.

(2) The ERC shall allow the grantee sufficient time to remedy any interruption but in no case exceed thirty (30) days from the issuance of a written notice to that effect.

Failure by the grantee to meet any service obligation which continues for more than thirty (30) days, after written notice thereof from the ERC, shall constitute a basis to assess financial penalties against the grantee. Such penalties shall be determined by the ERC in accordance to Republic Act No. 9136, its implementing rules and regulations or any circular or order or resolution of the ERC.

The grantee shall pay any penalties assessed in connection with this section to the ERC within sixty (60) days after receipt of a demand thereof. Such penalties shall not be regarded as an expenditure of the grantee.

SEC. 23. *Equality Clause.* – In the event that any competing individual, partnership or corporation shall receive a similar permit or franchise with terms and/or provisions more favorable than those herein granted or which tend to place the herein grantee at any disadvantage, such terms and/or provisions shall be deemed part hereof and shall operate equally in favor of the herein grantee: *Provided*, That any term and/or provision herein granted which are not contained in other franchises that may hereafter be granted, shall likewise be enjoyed by the future grantees.

SEC. 24. *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; Republic Act No. 9513; and Republic Act No. 9136.

SEC. 25. *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. 26. *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.

SEC. 27. *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 of the Philippines on June 3, 2019.

MYRA MARIE D. VILLARICA
Secretary of the Senate

DANTE ROBERTO P. MALING
Acting Secretary General House of Representatives

Approved: JUL 3 1 2019



RODRIGO ROA DUTERTE
President of the Philippines

O

