

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 3118



Introduced by **Representative Emmanuel F. Madrona**

EXPLANATORY NOTE

Telecommunications is an essential infrastructure just like any public utility, i.e. water, electricity, transportation, broadcasting and the like, that addresses the basic needs of peoples, institutions, and communities. Its pervasiveness and efficiency have a direct bearing on the level of development for many sectors of society. Studies on information and communication technology have shown a direct correlation between accessibility to telecommunications and total and inclusive development. Indeed, telecommunications not only enhances information dissemination but completes the crucial cycle of communication very much needed by our countrymen given the fact that the Philippines is an archipelago.

The clamor for a Philippine telecommunications industry that provides efficient, dependable, and affordable communication and information services is very clear. Institutions and individual end-users have expressed their collective desire, nay, demand for the industry to keep in complimentary stride with them and make significant contributions to nation building. Statistics would show that industry demand drivers have been growing steadily while there is a lag on the supply side.

Within the aforementioned context, Streamtech Systems Technologies, Inc. seeks to do its share to improve the telecommunication industry's capacity to promote the common good and serve the general public. With its financial and technical resources, the company seeks to establish an international gateway facility, provide broadband service, and set up public data networks.

This bill seeks to grant Streamtech Systems Technologies, Inc. a franchise to construct, install, establish, operate, and maintain telecommunications systems in the Philippines for commercial purposes and in the public interest.

In view of the foregoing, approval of this measure is most respectfully sought.


EMMANUEL F. MADRONA

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AN ACT GRANTING THE STREAMTECH SYSTEMS TECHNOLOGIES, INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions
2 of the Philippine Constitution and applicable laws, rules and regulations, there
3 is hereby granted to Streamtech Systems Technologies, Inc., hereunder
4 referred to as the grantee, its successors or assignees, a franchise to construct,
5 install, establish, operate and maintain for commercial purposes and in the
6 public interest, an international gateway facility to serve and connect the
7 Philippines to other countries and territories, wire and/or wireless
8 telecommunications systems, international and national broadband system,
9 mobile and cellular, including but not be limited to paging, fiber optics,
10 multichannel multipoint distribution systems, switches and their value-added
11 services such as, transmission of voice, data, facsimile, control signs, audio
12 and video, information services and all other value-added technologies as are
13 available or will be made available through technological advances or
14 innovations in the future; and/or construct, acquire, lease and operate or
15 manage transmitting and receiving stations, lines, cables, or systems as is or
16 are convenient or essential to efficiently carry out the purpose of this franchise.
17

18 SECTION 2. *Manner of Operation of Stations or Facilities.* - The stations
19 or facilities of the grantee shall be constructed and operated in a manner as
20 will, at most, result only in the minimum interference on the wavelengths or
21 frequencies of existing stations or other stations which may be established by
22 law, without in any way diminishing its own privilege to use its selected
23 wavelengths or frequencies and the quality of transmission or reception
24 thereon as should maximize rendition of the grantee's services and/or
25 availability thereof.
26

27 SECTION 3. *Authority of the National Telecommunications Commission* -
28 The grantee shall secure from the National Telecommunications Commission
29 (NTC) a Certificate of Public Convenience and Necessity or the appropriate
30 permits and licenses for the construction, installation and operation of its
31 telecommunications systems/facilities. In issuing the certificate, the NTC shall
32 have the power to impose such conditions relative to the construction,
33 operation, maintenance, or service level of the telecommunications system.

1 The NTC shall have the authority to regulate the construction and operation of
2 its telecommunications systems. The grantee shall not use any frequency in the
3 radio spectrum without authorization from the NTC. Such certificate shall state
4 the areas covered and date the grantee shall commence the service. The NTC,
5 however, shall not unreasonably withhold or delay the grant of any such
6 authority, permits, or licenses.
7

8 SECTION 4. *Excavation and Restoration Works.* - For the purpose of
9 erecting and maintaining poles or other supports for said wires or other
10 conductors for the purpose of laying and maintaining underground wires,
11 cables, or other conductors, it shall be lawful for the grantee, its successors or
12 assignees, with the prior approval of the Department of Public Works and
13 Highways (DPWH) or the local government unit (LGU) concerned, as may be
14 appropriate, to make excavations or lay conduits in any of the public places,
15 roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of said
16 province, cities and/or municipalities; *Provided however*, that a public place,
17 road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed,
18 altered, or changed by reason of erection of poles or other supports or the
19 underground laying of wires, other conductors, or conduits, shall be repaired
20 and replaced in workmanlike manner by the grantee, its successors or
21 assignees, in accordance with the standards set by the DPWH or the LGU
22 concerned. Should the grantee, its successors or assignees, after the ten (10)-
23 day notice from the said authority, fail, refuse or neglect to repair or replace
24 any part of public place, road, highway, street, lane, alley, avenue, sidewalk or
25 bridge altered, changed, or disturbed by the said grantee, its successors or
26 assignees, then the DPWH or the LGU concerned shall have the right to have
27 the same repaired and placed in good order and condition at double expense to
28 be charged against the grantee, its successors or assignees.
29

30 SECTION 5. *Responsibility to the Public.* - The grantee shall conform to
31 the ethics of honest enterprise and not use its stations or facilities for obscene
32 or indecent transmission, or for dissemination of deliberately false information,
33 or wilful misrepresentation, or assist in subversive or treasonable acts.

34 The grantee shall provide basic or enhanced telephone service in any city
35 and/or municipality in the Philippine where it has an approved Certificate of
36 Public Convenience and Necessity for the establishment, operation, and
37 maintenance of a local exchange service, without discrimination to any
38 applicant therefor, in the order of the date of their applications, up to the limit
39 of the capacity of its local telephone exchange and, should the demand for the
40 telephone service at any time increase beyond the capacity thereof, the grantee
41 shall increase the same to meet such demand; *Provided*, That in case the total
42 demand to be satisfied by the expansion is less than the smallest viable local
43 exchange available in the market as determined by the NTC, the grantee shall
44 not be obliged to furnish such service unless the applicant for telephone
45 service defrays the actual expenses for the installation of the
46 telecommunications apparatus necessary for such services and in such case, the
47 NTC may extend the time within which the grantee shall furnish such service.

48 The grantee shall operate and maintain all its stations, lines, cables,
49 systems, and equipment for the transmission and reception of messages,
50 signals, and pulses in a satisfactory manner at all times, and as far as
51 economical and practicable, modify, improve, or change such stations, lines,
52 cables, systems, and equipment to keep abreast with the advances in science
53 and technology.

1 SECTION 6. *Rates for Services.* - The charges and rates for
2 telecommunications services of the grantee, except the rates and charges on
3 those that may hereafter be declared or considered as nonregulated services,
4 whether flat rates or measured rates or variation thereof, shall be subject to the
5 approval of the NTC or its legal successor. The rates to be charged by the
6 grantee shall be unbundled, separable, and distinct among the services offered
7 and shall be determined in such a manner that regulated services do not
8 subsidize the unregulated ones.
9

10 SECTION 7. *Right of Government.* - A special right is hereby reserved to
11 the President of the Philippines, in times of war, rebellion, public peril,
12 calamity, emergency, disaster or disturbance of peace and order; to temporarily
13 take over and operate the stations, transmitters, facilities, or equipment of the
14 grantee; to temporarily suspend the operation of any station, transmitter,
15 facility, or equipment in the interest of public safety, security, and public
16 welfare; or to authorize the temporary use and operation thereof by any agency
17 of the government, upon due compensation to the grantee, for the use of the
18 stations, transmitters, facilities, or equipment during the period when these
19 shall be so operated.

20 The radio spectrum is a finite resource that is part of the national patrimony
21 and the use thereof is a privilege conferred upon the grantee by the State and
22 may be withdrawn anytime after due process.
23

24 SECTION 8. *Term of Franchise.* - This franchise shall be in effect for a
25 period of twenty-five (25) years from the date of effectivity of this Act, unless
26 sooner cancelled. This franchise shall be deemed *ipso facto* revoked in the
27 event the grantee fails to comply with any of the following conditions:

28 (a) Commence operations within one (1) year from the approval of its
29 operating permit by the NTC;

30 (b) Commence operations within three (3) years from the effectivity of
31 this Act; and

32 (c) Operate continuously for two (2) years.
33

34 SECTION 9. *Acceptance and Compliance.* - Acceptance of this franchise
35 shall be given in writing to the Congress of the Philippines, through the
36 Committee on Legislative Franchises of the House of Representatives and the
37 Committee on Public Services of the Senate, within sixty (60) days from the
38 effectivity of this Act. Upon giving such acceptance, the grantee shall exercise
39 the privileges granted under this Act. Non-acceptance shall render the
40 franchise void.
41

42 SECTION 10. *Bond.* - The grantee shall file a bond with the NTC in the
43 amount that it shall determine to guarantee compliance with and fulfilment of
44 the conditions under which this franchise is granted. If, after three (3) years
45 from the date of the approval of its permit by the NTC, the grantee shall have
46 fulfilled the conditions, the bond shall be cancelled by the NTC. Otherwise, the
47 bond shall be forfeited in favour of the government and the franchise *ipso facto*
48 revoked.
49

50 SECTION 11. *Right of Interconnection.* - The grantee is hereby
51 authorized to connect or demand connection of its telecommunications systems
52 to other telecommunications systems installed, operated and maintained by any
53 other duly authorized person or entity in the Philippines for the purpose of

1 providing extended and improved telecommunications services to the public,
2 under such terms and conditions mutually agreed upon by the parties
3 concerned and the same shall be subject to the review and modification of the
4 NTC.
5

6 SECTION 12. *Warranty in Favor of the National and Local Governments.*

7 - The grantee shall hold the national, provincial, city, and municipal
8 governments of the Philippines free from all claims, accounts, demands or
9 actions arising out of accidents or injuries, whether to property or to persons,
10 caused by the construction or operation of the stations, transmitters, facilities,
11 and equipment of the grantee.
12

13 SECTION 13. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of*
14 *Franchise.* - The grantee shall not sell, lease, transfer, grant the usufruct of nor
15 assign this franchise or the rights and privileges acquired thereunder to any
16 person, firm, company, corporation, or other commercial or legal entity, nor
17 merge with any other corporation or entity, nor shall transfer the controlling
18 interest of the grantee, whether as a whole or in part, and whether
19 simultaneously or contemporaneously, to any such person, firm, company,
20 corporation, or entity without the prior approval of the Congress of the
21 Philippines; *Provided*, That Congress shall be informed of any sale, lease,
22 transfer, grant of usufruct, or assignment of franchise or the rights and
23 privileges acquired thereunder, or of the merger or transfer of the controlling
24 interest of the grantee, within sixty (60) days after the completion of said
25 transaction: *Provided further*, That failure to report to Congress such change of
26 ownership shall render the franchise *ipso facto* revoked: *Provided finally*, That
27 any person or entity to which this franchise is sold, transferred or assigned
28 shall be subject to the same conditions, terms, restrictions, and limitations of
29 this Act.
30

31 SECTION 14. - *Dispersal of Ownership.* In accordance with the
32 constitutional provision to encourage public participation in public utilities, the
33 grantee shall offer to Filipino citizens at least thirty *per centum* (30%) or a
34 higher percentage that may hereafter be provided by law of its outstanding
35 capital stock in any securities and exchange in the Philippines within five (5)
36 years from the commencement of its operations: *Provided*, That in the cases
37 where public offer of shares is not applicable, establishment of cooperatives
38 operating public utilities must be implemented. Noncompliance therewith shall
39 render the franchise *ipso facto* revoked.
40

41 SECTION 15. *Reportorial Requirement.* - The grantee shall submit an
42 annual report to the Congress of the Philippines, through the Committee on
43 Public Services of the Senate, on its compliance with the terms and conditions
44 of the franchise and on its operations on or before April 30 of every year
45 during the term of its franchise. The reportorial compliance certificate issued
46 by Congress shall be required before any application for permit or certificate is
47 accepted by the NTC.
48

49 SECTION 16. *Penalty Clause.* - Failure to submit the requisite annual
50 report to Congress shall be penalized by a fine of five hundred pesos (P500.00)
51 per working day of noncompliance. The fine shall be collected by the NTC
52 from said delinquent franchise grantee separate from the reportorial penalties
53 imposed by the NTC.

1 SECTION 17. *Equality Clause.* - Any advantage, favour, privilege,
2 exemption, or immunity granted under other existing franchises, or which may
3 hereafter be granted, upon prior review and approval of Congress, shall
4 become part of this franchise and shall be accorded immediately and
5 unconditionally to the herein grantee: *Provided,* That the foregoing shall
6 neither apply to nor affect the provisions of telecommunications franchises
7 concerning territory covered by the franchise, the life span of the franchise or
8 the type of service authorized by the franchise.

9
10 SECTION 18. *Separability Clause.* - If any of the sections or provisions
11 of this Act is held invalid, all other provisions not affected thereby shall
12 remain valid.

13
14 SECTION 19. *Repealability Clause and Non Exclusivity Clause.* - This
15 franchise shall be subject to amendment, alteration, or repeal by the Congress
16 of the Philippines when the public interest so requires and shall not be
17 interpreted as an exclusive grant of the privileges herein provided for.

18
19 SECTION 20. *Effectivity.* - This act shall take effect fifteen (15) days
20 after its publication in at least two (2) newspapers of general circulation.

21
22 Approved,