Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

COMMITTEE REPORT NO. 791

Submitted by the Committee on Legislative Franchises on MAR 2 2021

Re: House Bill No. 8861

Recommending its approval in substitution of House Bill No. 6266


Mr. Speaker:

The Committee on Legislative Franchises to which was referred House Bill No. 6266, authored by Rep. Carlito S. Marquez entitled:

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO PANAY TELEPHONE CORPORATION, UNDER REPUBLIC ACT NO. 8704, ENTITLED "AN ACT GRANTING THE PANAY TELEPHONE CORPORATION, INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN LOCAL EXCHANGE NETWORK IN THE PROVINCE OF AKLAN AND ANTIQUE"

has considered the same and recommends that the attached House Bill No. 8861 entitled:

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO PANAY TELEPHONE CORPORATION UNDER REPUBLIC ACT NO. 8704, ENTITLED "AN ACT GRANTING THE PANAY TELEPHONE CORPORATION, INC. A FRANCHISE TO CONSTRUCT, INSTALL, MAINTAIN AND OPERATE A LOCAL EXCHANGE NETWORK IN THE PROVINCES OF AKLAN AND ANTIQUE AND IN THE MUNICIPALITY OF JANUJAY, PROVINCE OF ILOILO" BUT LIMITING THE AREA OF OPERATION TO THE PROVINCES OF AKLAN AND ANTIQUE"


Respectfully submitted:

FRANZ E. ALVAREZ
Chairperson
Committee on Legislative Franchises

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
Republic of the Philippines
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HOUSE BILL NO. 8861
(In substitution of House Bill No. 6266)


"AN ACT
RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO PANAY TELEPHONE CORPORATION UNDER REPUBLIC ACT NO. 8704, ENTITLED "AN ACT GRANTING THE PANAY TELEPHONE CORPORATION, INC. A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE LOCAL EXCHANGE NETWORK IN THE PROVINCES OF AKLAN AND ANTIQUE AND IN THE MUNICIPALITY OF JANIUAY, PROVINCE OF ILOILO", LIMITING THE AREA OF OPERATION TO THE PROVINCES OF AKLAN AND ANTIQUE"

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, the franchise granted to Panay Telephone Corporation, hereunder referred to as the grantee, its successor or assignees under Republic Act No. 8704, to construct, install, establish, operate, and maintain for commercial purposes and in the public interest in the Provinces of Aklan and Antique, wire and wireless telecommunications system, copper, fiber optics, satellite transmit and receive systems, switches and their value-added services such as the transmission of voice, data, facsimile, control signs, audio and video, information services and all other telecommunication system technologies as are at present available or will be made available through technological advances or innovations in the future; or construct, acquire, lease, and operate, or manage
transmitting and receiving stations, lines, cables, or systems as are convenient and
essential to efficiently carry out the purpose of this franchise, is hereby renewed for
another twenty-five (25) years.

SEC. 2. Manner of Operation of Stations or Facilities. – The stations or
facilities of the grantee shall be constructed and operated in a manner as will, at most,
result only in the minimum interference on the wavelengths or frequencies of existing
stations or other stations which may be established by law, without in any way
diminishing its own right to use its assigned wavelengths or frequencies and the quality
of transmission or reception thereon as should maximize rendition of the grantee’s
services or the availability thereof.

SEC. 3. Authority of the National Telecommunications Commission. – The
grantee shall secure from the National Telecommunications Commission (NTC) a
Certificate of Public Convenience and Necessity or the appropriate permits and
licenses for the construction, installation, and operation of its telecommunications
systems or facilities. In issuing the certificate, the NTC shall have the power to regulate
and impose such conditions relative to the construction, operation, maintenance, or
service level of the telecommunications systems or facilities. Such certificate shall
state the areas covered and the date the grantee shall commence the service. The
grantee shall not use any frequency in the radio spectrum without authorization from
the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of
such authority, permit, or license.

In case of any violation of the provisions of this franchise, the NTC shall have
the authority to revoke or suspend, after due process, the permits or licenses it issued
pursuant to the franchise. The NTC may recommend to Congress the revocation of
the franchise for any violation of the provisions of this franchise.

SEC. 4. Excavation and Restoration Works. – For the purpose of erecting
and maintaining poles or other supports for said wires or other conductors for the
purpose of laying and maintaining underground wires, cables, or other conductors, it
shall be lawful for the grantee, its successors or assignees, with the prior approval of
the Department of Public Works and Highways (DPWH) or the local government unit
(LGU) concerned, as may be appropriate, to make excavations or lay conduits in any
of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, or municipalities: Provided, however, That a 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 and replaced in workmanlike manner by said 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 public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or disturbed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed 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 conform to the ethics of honest enterprise and not use its stations or facilities for obscene or indecent transmission, or for dissemination of deliberately false information, or willful misrepresentation, or assist in subversive or treasonable acts.

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.

The grantee shall improve and extend its services in areas not yet served, and in hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk Reduction and Management Council, or its legal successor, in coordination with the NTC.

The grantee shall also improve and upgrade its equipment, facilities and services, in order to ensure effective compliance with the objectives of Republic Act No. 10639 or the “Free Mobile Disaster Alerts Act”.
SEC. 6. Rates for Services. – The charges and rates for 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 variations thereof, shall be subject to the approval of the NTC or its legal successor. 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. 7. Right of Government. – The radio spectrum is a finite resource that is part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn any time after due process.

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 stations, transmitters, facilities, or equipment of the grantee; to temporarily suspend the operation of any station, transmitter, facility, or equipment 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 the stations, transmitters, facilities, or equipment during the period when these shall be so operated.

SEC. 8. Term of Franchise. – This franchise shall be in effect for a period of twenty-five (25) years from the date of the effectivity of this Act, unless sooner cancelled. This franchise shall be deemed ipso facto revoked in the event the grantee fails to operate continuously for two (2) years.

SEC. 9. Renewal or Extension of Franchise. – The grantee shall apply for the renewal or extension of its franchise three (3) years before its expiration which shall be reckoned from fifteen (15) days after the publication of the franchise in the Official Gazette or in a newspaper of general circulation.

SEC. 10. Right of Interconnection. – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated, and maintained 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 the terms and
conditions mutually agreed upon by the parties concerned. This right shall be subject
to the review and modification of the NTC.

SEC. 11. 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, accounts, demands, or actions arising out of
accidents causing injury to persons or damage to properties, during the construction
or operation of the stations, transmitters, facilities, or equipment of the grantee.

SEC. 12. 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 the controlling interest of the grantee be
transferred, simultaneously or contemporaneously, to any person, firm, company,
corporation, or entity without the prior approval of Congress. The grantee shall
inform Congress of any sale, lease, transfer, grant of usufruct, or assignment of
franchise or the rights and privileges acquired thereunder, or of the merger or transfer
of the controlling interest of the grantee, within sixty (60) days after the completion of
the said transaction. 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. 13. Dispersal of Ownership. - In accordance with the constitutional
provision to encourage public participation in public utilities, the grantee shall offer to
Filipino citizens at least thirty percent (30%) of its common stocks, or a higher
percentage that may hereafter be provided by law, in any securities exchange in the
Philippines within five (5) years from the effectivity of this Act: Provided, That in cases
where public offer of shares is not applicable, other methods of encouraging public
participation by citizens and corporations operating public utilities must be
implemented. Noncompliance therewith shall render the franchise ipso facto revoked.
Sec. 14. Commitment to Provide and Promote the Creation of Employment Opportunities. – The grantee shall create employment opportunities and accept on-the-job trainees in the franchise operations: Provided, That priority shall be accorded to the residents of the place where the principal office of the grantee is located: Provided further, That the grantee shall ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual, job order, or casual employees, and independent contractors combined, exceed forty percent (40%) of its total workforce: Provided, finally, That the grantee shall comply with the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations, and similar issuances.

The employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually. In addition, the grantee shall include in its annual report to Congress the number of trainees, job order workers, casual employees, and contract of service workers whose employment status are made regular, and append the appropriate certificate from the Department of Labor and Employment attesting that it has complied with the employment requirement under this Section.

SEC. 15. Reportorial Requirement. – The grantee shall submit an annual report on its compliance with the terms and conditions of the franchise and on its operations 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 or before April 30 of every year during the term of its franchise.

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

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

SEC. 16. Fine. – Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of One million pesos
(P1,000,000.00) each working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: Provided, That in the interim, the grantee shall be liable to pay the fine of Five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC, and the same shall be remitted to the Bureau of the Treasury.

SEC. 17. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for telecommunications, 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, however, That the foregoing shall neither apply to nor affect the provisions of telecommunications franchises concerning territory covered by the franchise, the life span of the franchise, or the type of service authorized by the franchise.

SEC. 18. Repealability and Nonexclusivity Clause. – This franchise shall be subject to amendment, alteration, or repeal by Congress when the public interest so requires and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 19. 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. 20. Repealing Clause. – All laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 21. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved