

AN ACT GRANTING JULIO ARNAIZ GARCIA AND JOSE ARNAIZ GARCIA A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN A TELEPHONE SYSTEM IN THE MUNICIPALITIES OF TANJAY, BAIS, MANJUYOD, AND P...

REPUBLIC ACT NO. 4609, June 19, 1965

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

SECTION. 1. Subject to the conditions established in this Act and the provisions of Commonwealth Act Numbered One hundred and forty-six, as amended, and of the Consti-tution, applicable thereto, there is hereby granted to Julio Arnaiz Garcia and Jose Arnaiz Garcia, hereinafter called the grantees, their successors or assigns, for a period of twenty-five years from the approval of this Act, the right and privilege to construct, maintain and operate a telephone system in the municipalities of Tanjay, Bais, Manjuyod, and Pamplona, Province of Oriental Negros: Provided, how-ever, That the existing telephone establishment of the Bais Sugar Central extended free of charge to the staff and personnel of the company and to the sugar planters adhered to the central shall be authorized to operate dur-ing the lifetime of this franchise. For this purpose, the grantees are hereby authorized to use all streets and public thoroughfares of the said municipalities for the construc-tion, maintenance and operation of all apparatus, con-ductors and appliances necessary for the electrical trans-mission of conversations and signals, to erect poles, string wires, build conduits, lay cables and to construct, main-tain and use such other approved and generally accepted means of electrical conduction in, on, over or under the public roads, highways, lands, bridges, streets, lanes and sidewalks of said municipalities, and overhead or under-ground lines or on the surface of the ground as may be necessary and best adapted to said transmission.

SEC. 2. All poles erected and all conduits constructed or used by the grantees shall be located in places designated by the grantees with the approval of the municipal board of the municipality concerned: Provided, That all poles erected and used by the grantees or their successors or assigns shall be of such appearance as not to disfigure the streets, and the wires and cables carried by said poles and the underground cables shall be strong and laid in accord-ance with professional standards approved by the Public Service Commission; and said poles shall be of such height as to maintain the wires and cables stretched on the same at a height of at least fifteen feet above the level of the ground, and said wires and cables be so placed as not to imperil the public safety, in accordance with a plan approved by the Public Service Commission: Provided, further, That whenever twenty-five or more pairs of wires or other conductors are carried on one line of poles in any place of the poblacion of any of the municipalities of Tanjay, Bais, Manjuyod and Pamplona, Province of Oriental Negros, said wires or conductors shall be placed in one cable, and whenever more than eight hundred pairs of wires of other conductor are carried on one line of poles, said wires or conductors shall be placed underground by the grantees, their successors or assigns, whenever ordered to do so by the Public Service Commission.

SEC. 3. For the purpose of erecting and placing the poles or other supports of such wires or other conductors or of laying and maintaining underground said wires, cables or other conductors, it shall be lawful for the grantees, their successors or assigns, to make excavations or lay conduits in any of the public places, highways, streets,

alleys, lanes, avenues, sidewalks or bridges in the municipalities of Tanjay, Bais, Manjuyod, and Pamplona, Province of Oriental Negros: Provided, however, That any public place, high-way, street, alley, lane, avenue, sidewalk or bridge disturbed, altered or changed by reason of the erection of poles or other supports, or the laying underground of wires or other conductors, or conduits, shall be repaired and re-stored to the satisfaction of the engineers of the Province of Oriental Negros and removing from the same all rub-bish, dirt, refuse, or other material which may have been placed there or taken up in the erection of said poles or the laying of said underground conduits, leaving them in as good condition as they were before the work was done.

SEC. 4. Whenever any person has obtained permission to use any of the streets of the municipality concerned for the purpose of removing any building or in the prosecution of any municipal work or for any other cause whatsoever, making it necessary to raise or remove any of said wires or conduits which may obstruct or hinder the prosecution of said work, the said grantees, upon notice by the municipal council of the municipality, served upon said grantees at least forty-eight hours in advance, shall raise or remove any of said wires or conduits which may hinder the prosecution of such work or obstruct the removal of said building, so as to allow the free and unobstructed passage of said building and the free and unobstructed prosecution of said work, and the person or entity at whose request the wires or poles or other structures have been removed, shall pay one-half of the actual cost of replacing the poles or raising the wires and other conductors or structures. The notice shall be in the form of a resolution duly adopted by the municipal council of the municipality concerned served upon the grantees or their duly authorized representative or agent by a person competent to testify as witness in a civil action, and in case of refusal or failure of the grantees to comply with such notice, the municipal mayor with the proper approval of the municipal council of the municipality first had, as the case may be, shall order such wires or conduits to be raised or removed at the expense of the grantees, for the purpose aforesaid.

SEC. 5. All apparatus and appurtenances used by the grantees, their successors or assigns, shall be modern and first class in every respect, and all telephone lines or installations used, maintained and operated in connection with this franchise by the grantees, their successors or assigns shall be kept and maintained at all times in a satisfactory manner, so as to render an efficient and adequate telephone service, and it shall be the further duty of said grantees, their successors or assigns, whenever required to do so by the Public Service Commission, to modify, improve and change such telephone system for the electrical transmission of conversations and signals by means of electricity in such manner and to such extent as the progress of science and improvements in the method of electrical transmission of conversations and signals by means of electricity may make reasonable and proper.

SEC. 6. The grantees, their successors or assigns, shall keep a separate account of the gross receipts of their telephone business, and shall furnish to the Auditor General and the Treasurer of the Philippines a copy of such account not later than the thirty-first day of July of each year for the twelve months preceding the first day of July.

SEC. 7. The grantees, their successors or assigns, shall pay to the Treasurer of the Philippines each year, within ten days after the audit and approval of the accounts as prescribed in Section six of this Act, one per centum of all gross receipts of the telephone business transacted under this franchise by the grantees, their successors or assigns, and the said percentage shall be in lieu of all taxes on this franchise or its earnings.

SEC. 8. Within sixty days from the approval of this Act, the grantees shall file with the Public Service Commission their application for a certificate of convenience and public necessity. In case of failure to make such application within the period established, this franchise shall become null and void.

SEC. 9. The grantees shall not commence any construction whatever pursuant to this franchise without first obtaining a certificate of convenience and public necessity from the Public Service Commission of the form and

character provided for in Commonwealth Act Numbered One hundred and forty-six, as amended, specifically authorizing such construction. The grantees shall not exercise any right or privilege under this franchise without first having obtained such certificate of public convenience and necessity from the Public Service Commission. The Public Service Commission shall have the power to issue such certificate of convenience and public necessity whenever it shall, after due hearing, determine that such construction or such exercise of the rights and privileges under this franchise is necessary and proper for public convenience, and the Commission shall have the power in issuing such certificate to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require, and such certificate shall state the date in which the grantees shall commence construction and the period within which the work shall be completed. In order to avail itself of the right granted by such certificate of convenience and public necessity, the grantees shall file with the Public Service Commission, within such period as said Commission shall fix, their written acceptance of the terms and conditions of this franchise and of the certificate, together with the document evidencing the fact that the deposit required in Section ten has been made. In the event that the grantees shall not commence the telephone service referred to in the certificate obtained and filed as herein provided within such period as the Public Service Commission shall have fixed, said Commission may declare said certificate null and void and the deposit made pursuant to Section ten of this Act forfeited to the National Government unless the grantees shall have been prevented from doing so by fortuitous cause or force majeure, usurped or military power, martial law, riot, uprising or other inevitable cause: Provided, however, That if the grantees shall have been prevented by any of said causes from commencing the telephone service within the period specified, the time during which they shall have been so prevented shall be added to said period: Provided, further, That failure on the part of the grantees to accept conditions of this franchise and those imposed in the certificate of convenience and public necessity shall automatically void this franchise.

SEC. 10. Upon the written acceptance of the terms and conditions of this franchise, the grantees shall deposit with the Treasurer of the Philippines five thousand pesos or negotiable bonds of the Government of the Philippines or other securities approved by the Secretary of Public Works and Communications, of the face value of five thousand pesos, as an earnest of good faith in accepting this franchise and guaranty that, within six months from the date of the granting by the Public Service Commission of a certificate of convenience and public necessity authorizing construction and operation by the grantees of a telephone service in the municipalities of Tanjay, Bais, Manjuyod, and Pamplona, Province of Oriental Negros, the grantees, their successors or assigns, will be completely provided with the necessary equipment and ready to begin operation in accordance with the terms of this franchise: Provided, That if the deposit is made in money the same shall be deposited at interest in some interest-paying bank approved by the Secretary of Public Works and Communications, all interest accruing and due on such deposit shall be collected by the Treasurer of the Philippines and paid to the grantees, their successors or assigns, on demand: And provided, further, That if the deposit made with the Treasurer of the Philippines be in negotiable bonds of the Government of the Philippines or other interest bearing securities approved by the Secretary of Public Works and Communications, the interest on such bonds or securities shall be collected by the Treasurer of the Philippines and paid over to the grantees, their successor or assigns, on demand.

Should the said grantees, their successors or assigns, for any other cause than the act of God, the public enemy, usurped or military power, martial law, riot, civil commotion or inevitable cause, fail, refuse or neglect to begin within twelve months from the date of the granting of said certificate of convenience and public necessity, the business of transmitting messages by telephone or fail, refuse, or neglect to be fully equipped and ready to operate, within twelve months from the date of the granting of said certificate of convenience and public necessity, the telephone service in the municipalities of Tanjay, Bais, Manjuyod, and Pamplona, Province of Oriental Negros, applied for by the grantees according to the terms of this franchise, then the deposit prescribed

by this section to be made with the Treasurer of the Philippines whether in money, bonds of other securities, shall become the property of the National Government as liquidated damages caused to, such Government by such failure, refusal or neglect, and thereafter no interest on said bonds or other securities deposited shall be paid to the grantees, their successors or assigns; but should they begin the business of transmitting messages by telephone and be ready to operate according to the terms of this franchise the telephone service in the municipalities of Tanjay, Bais, Manjuyod, and Pamplona, Province of Oriental Negros, within twelve months from the date of the granting of said certificate of convenience and public necessity, then and in that event the deposit prescribed by this section shall be returned by the National Government to the grantees, their successors or assigns, upon the recommendation of the Public Service Commission, as soon as the telephone service in said province applied for by the grantee has been installed in accordance with the terms of this franchise: Provided, however, That all the time during which the grantees, their successors or assigns, may be prevented from carrying out the terms and conditions of this franchise by any of said causes shall be added to the time allowed by this franchise for compliance with its provisions.

SEC. 11. The books and accounts of the grantees, their successors or assigns, shall always be open to the inspection of the auditor of the province or his authorized representative, and it shall be the duty of the grantees to submit to the Auditor General quarterly reports in duplicate showing the gross receipts and the net receipts for the quarter past and the general condition of the business.

SEC. 12. The rights herein granted shall not be exclusive, and the right and power to grant to any corporation, association or person other than the grantees, franchise for the telephone or electrical transmission of messages for signals shall not be impaired or affected by the granting of this franchise: Provided, That the poles erected, wires strung or cables or conduits laid by virtue of any franchise for telephone, or other electrical transmission of messages and signals granted subsequent to this franchise shall be so placed as not to impair the efficient and effective transmission of conversation or signals under this franchise by means of poles erected, wires strung, or cables or conduits actually laid and in existence at the time of the granting of said subsequent franchise: And provided, further, That the Public Service Commission, after hearing both parties interested, may compel the grantees of this franchise or their successors or assigns to remove, relocate, or replace their poles, wires or conduits; but in such case the reasonable cost of the removal, relocation or replacement shall be paid by the grantees of the subsequent franchise or its successors or assigns to the grantees of this franchise or their successors or assigns.

SEC. 13. The grantees, their successors or assigns, shall hold the national, provincial and municipal government harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the telephone or other electrical transmission system of the said grantees, their successors or assigns.

SEC. 14. The rate for the telephone service, flat rates as well as measured rates, shall be subject to the approval of the Public Service Commission.

The monthly rates for telephone having a metallic circuit within the limits of the province shall also be approved by the Public Service Commission.

SEC. 15. The grantees shall not, without the previous and explicit approval of the Congress of the Philippines, directly or indirectly, transfer, sell or assign this franchise to any person, association, company or corporation or other mercantile or legal entity.

SEC. 16. The grantees may install, maintain, operate, purchase or lease such telephone stations, lines, cables or system, as is or are convenient or essential to efficiently carry out the purpose of this franchise: Provided,

how-ever, That the grantees, their successors or assigns, shall not, without the permission of the Public Service Commission first had, install, maintain, operate, purchase or lease such stations, lines, cables or systems.

SEC. 17. The Philippine Government shall have the privilege, without compensation, of using the poles of the grantees to attach one ten-pin crossarm, and to install, maintain and operate wires of its telegraph system there-on: Provided, however, That the Bureau of Telecommunications shall have the right to place additional crossarms and wires on the poles of the grantees by paying a compensation, the rate of which is to be agreed upon by the Director of Telecommunications and the grantees: Provided, further, That in case of disagreement as to rate of contract rental, same shall be fixed by the Public Service Commission. The municipalities of Tanjay, Bais, Manjuyod, and Pamplona, Province of Oriental Negros shall also have the privilege, without compensation, of using the poles of the grantees, to attach one standard crossarm, and to install, maintain and operate, wires of a local police and fire alarm system; but the wires of such telegraph lines, police or fire alarm system shall be placed and strung in such manner as to cause no interference with or damage to the wires of the telephone service of the grantees. Reciprocally, the grantees are entitled to attach one standard crossarm and to install, maintain and operate wires of its system on any of the existing poles of the Philippine Government, municipalities of Tanjay, Bais, Manjuyod and Pamplona, Province of Oriental Negros and the Bureau of Telecommunications.

SEC. 18. It is expressly provided that in the event the Philippine Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantees shall surrender their franchise and will turn over to the Government said system and all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 19. This Act shall take effect upon its approval.

Approved, June 19, 1965.

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