AN ACT GRANTING TO CANUTO OCTAVIO BORROMEO AND VICENTE A. RACAZA A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, AND POWER SYSTEM IN THE MUNICIPALITY OF O...

Act No. 2770, March 05, 1918

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Subject to the conditions established in this Act and the provisions of Act Numbered Twenty-three hundred and seven and amendments thereof, applicable thereto, there is hereby granted to Canuto Octavio Borromeo and Vicente A. Racaza for a period of thirty-five years from the approval of this Act, the right, privilege, and authority, to construct, maintain, and operate in all streets, public thoroughfares, and public places within the limits of the municipality of Ormoc, Leyte, poles, wires, and all necessary apparatus and appurtenances for the transmission and distribution of currents for electric power, heat, and light, and for any other use to which electricity may be put, and to furnish electric power, heat, and light with-in said municipality of Ormoc, Province of Leyte, for municipal, domestic, or manufacturing uses and for any other use to which electricity may be put, and to charge and collect a schedule of prices for the use of the same: Provided, That said prices shall always be subject to rules provided by Act of the Philippine Legislature or by the entities or authorities authorized by law, and shall in no case exceed forty centavos per kilowatt hour: Provided, further, That this franchise shall not take effect until the grantee company shall have obtained from the Public Utility Commission a certificate showing the public necessity and convenience of the same, in accordance with the purpose of section twenty-three of Act Numbered Twenty-three hundred and seven, as amended, and shall have filed such certificate with the Secretary of Commerce and Communications upon accepting this franchise: And provided, further, That if the grantee does not file the proper application for said certificate with the Public Utility Commission within three months from the date of the approval of this Act, this franchise shall become null and void.

SEC. 2. The concession of the right, privilege, and authority mentioned in the preceding section shall not take effect unless the grantee shall accept in writing and make part of this concession the following condition, to wit:

> "That the grantee state in writing that it is informed of the message of the President of the United States addressed to the Filipino people and communicated to said people by the Governor-General of the Philippine Islands on the sixth day of October, nineteen hundred and thirteen, and of the reply message of the Philippine Assembly made in the name of the Filipino people and approved and sent on October sixteenth, nineteen hundred and thirteen; that said grantee binds itself not to engage in or aid, by means of contributions in cash or otherwise, any propaganda directed against the policy of the Government of the United States outlined in such message of the President and the aspirations of the Filipino people set forth in said reply message of the Philippine Assembly, whether under the pretext of vested interests or under any other pretext, and that said grantee shall further bind itself to exact a similar engagement from its administrators, agents, successors, and assigns."

SEC. 3. The poles erected by the grantee shall be of such a height as to maintain the wires stretched on the same at a distance of at least twenty feet above the level of the ground, and shall be of such appearance as not to disfigure the streets, and shall be placed with due regard for the public safety so as not to be a danger to the same, in accordance with a plan approved by the municipal authorities, represented by the municipal president, and said grantee shall supply electric power, heat, and light to any applicant for the same, within fifteen days after the date of his application, and as between such applicant and other like applicants, in the order of the date of his application, up to the limit of the capacity of the plant of said grantee, to be determined by the district engineer on the application of said association or said grantee, and should the demand for electric power, heat, and light at any time increase beyond the capacity of the plant of said grantee to supply the same, the capacity of said plant shall be increased to meet such demand, upon authorization by the municipal council of Ormoc: Provided, That the point at which the electric power, heat, or light is to be supplied, shall not be more than eighty meters from the lines or wires operated by said grantee.

SEC. 4. All apparatus and appurtenances used by the grantee shall be modern and first class in every respect and said wires shall be insulated and carefully connected and fastened so as not to come in direct contact with any object through which a "ground" could be formed, and shall be stretched so as not to interfere with the free use of said streets and thoroughfares: Provided, That the grantee herein shall, whenever the Philippine Legislature or its successors so direct, place said wires in underground pipes or conduits at its own expense and without any cost or damage to the municipality of Ormoc.

SEC. 5. Whenever it shall be necessary in the erection of said poles to take up any portion of the sidewalks or dig up the ground near the sides or the corners of the public streets or thoroughfares, then the said grantee shall, after said poles are erected, without delay replace said sidewalks in the proper manner and remove from the same all rubbish, dirt, refuse, or other material which may have been placed there, taken up, or dug up in the erection of said poles, leaving them in as good condition as they were before the work was done; and whenever it shall become necessary, by reason of the extension of streets or plazas determined upon by the municipal council of Ormoc, to change the location of said posts, such change shall be made by the grantee, its successors or assigns, at their expense, without delay, and said posts shall be placed where directed by the said municipal council.

SEC. 6. Whenever any person has obtained permission to use any of the streets of the municipality 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 which may obstruct the removal of said building or hinder the prosecution of said work, the said grantee, upon forty-eight hours' notice from the municipal council of Ormoc, shall raise or remove any of said wires 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. Such notice shall be a duly adopted resolution of the municipal council, in writing, and served upon said grantee or its duly authorized representative or agent by any person competent to be a witness in a civil action; and in case of the refusal or failure of said grantee to comply with such notice, the municipal president, with the approval of the municipal council first had, shall order such wires to be raised or removed at the expense of said grantee, for the purposes aforesaid: Provided, however, That the grantee may appeal from any such decision to the provincial board of Leyte, whose decision shall be final.

SEC. 7. The grantee shall be liable to the municipality of Ormoc for any injury arising from any claims caused by accidents to person or property by reason of the construction under this franchise or of any neglect or omission to keep the said poles and wires in a safe condition.

SEC. 8. Said grantee shall file its acceptance of this franchise with the Secretary of Commerce and Communications within one hundred and twenty days from the date when it obtained the certificate required by

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section one of this Act, and shall commence work within six months' time from and after the date of filing such acceptance, unless prevented by act of God or force majeure, usurped or military power, martial law, riot or civil commotion or other inevitable cause and shall complete the system and have the same in operation within eighteen months from the date of such acceptance, and shall thereafter maintain a first-class electric light, heat, and power service: Provided, That in consideration of the franchise hereby granted, the grantee shall pay quarterly into the municipal treasury of Ormoc one per centum of the gross earnings of the enterprise during the first twenty years, and two per centum during the remaining fifteen years of the life of this franchise.

SEC. 9. At the time of filing the acceptance mentioned in the last preceding section, the grantee shall deposit in the Insular Treasury or with any of its agents in the Province of Leyte, one thousand pesos, or negotiable bonds of the United States or other securities approved by the Secretary of Commerce and Communications, of the face value of one thousand pesos, as an earnest of good faith and a guarantee that it will begin the electric light, heat, and power business and may be completely provided with the necessary equipment therefor and ready to begin operation under this franchise: Prorided, however, That if such deposit is in cash, it shall be deposited at interest in some bank, and the interest shall be paid by the Insular Treasury to the grantee, on application by the latter: And provided, further, That in case the deposit made in the Insular Treasury or with any of its agents in the Province of Leyte consists in negotiable bonds of the United States or in other interest-bearing securities, the interest shall be collected by the Insular Treasurer and paid to the grantee, on application by the latter.

In case such grantee shall fail, refuse, or neglect, unless prevented by fortuitous cause or force majeure, the public enemy, usurped or military power, martial law, riot, civil commotion or other inevitable cause, to commence the work for the electric light, heat and power service within six months from the date of the acceptance of this franchise, or shall fail to provide the necessary equipment and be ready to operate within eighteen months from the date of such acceptance in accordance with the terms of this franchise, then the deposit prescribed in this section and in the possession of the Insular Treasurer, whether in cash, bonds or other securities, shall be forfeited to the municipal government of Ormoc, as damages for said failure. In case the grantee begins to operate the electric light, heat and power service, or is ready for operation under this franchise, within six months after the date of such acceptance, the deposit provided for in this section shall be returned by the Insular Government to said grantee: Provided, That the time during which such grantee has been prevented by any of the causes above referred to from carrying out the terms and conditions of this franchise, shall be added to the time granted by this franchise for the fulfillment of its conditions.

SEC. 10. The municipality of Ormoc shall have the privilege, without compensation, of using the poles of the grantee for the purpose of installing, maintaining, and operating a telephone or fire and police alarm system, but the wires of such telephone or fire and police alarm system shall be placed and stretched in such manner as to cause no interference with or damage to the wires of the electric service of the grantee.

SEC. 11. This franchise is granted with the understanding and upon the condition that it shall be subject to amendment, alteration, or repeal by the Congress of the United States as provided in section twenty-eight of the Act of Congress approved August twenty-ninth, nineteen hundred and sixteen, entitled "An Act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those Islands," or by the Philippine Legislature, and that it shall be subject, in all respects, to the limitations upon corporations and the granting of franchises contained in said Act of Congress, and that all lands or rights of use or occupation of lands secured by virtue of this franchise shall revert upon its termination to the Insular, provincial, or municipal governments who were the owners thereof upon the date on which this franchise was granted, and all property of the grantee company used in connection with this franchise shall become the property of the Insular Government.

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SEC. 12. The grantee of this franchise is forbidden to issue stock or bonds under this franchise except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds issued and upon prior authority of the Public Utility Commission. Nor shall said grantee declare any stock or bond dividend.

SEC. 13. The books of the grantee shall always be open to the inspection of the provincial treasurer or a deputy designated by him for the purpose, and it shall be the duty of the grantee to submit to the provincial treasurer quarterly reports in duplicate showing the gross receipts and the net receipts for the quarter past and the general condition of the business, one of which shall be forwarded by the provincial treasurer to the Insular Auditor, who shall keep the same on file.

SEC. 14. The grantee shall pay on its real estate, property, buildings, plant, machinery, and other personal property the same taxes as are now or may hereafter be required by law from other persons.

SEC. 15. The grantee may, with the prior approval of the Public Utility Commission, sell, lease, give, grant, convey, or assign this franchise and all property and rights acquired thereunder to any person or corporation: Provided, That for the purposes of the sale, lease, donation, grant, or transfer, it shall be necessary to file in the office of the Secretary of Commerce and Communications an agreement in writing agreeing to comply with all the terms and conditions imposed on the grantee by the franchise and accepting the franchise subject to all its existing terms and conditions.

SEC. 16. The municipal council of Ormoc, after hearing the grantee, shall have the power with the approval of the Secretary of Commerce and Communications, to declare the forfeiture of this franchise for failure to comply with any of the terms and conditions thereof, unless such failure shall have been directly or primarily caused by the act of God, the public enemy, or force majeurc. Against such declaration of forfeiture the grantee may apply to any court of competent jurisdiction for such relief as to it may seem proper, but if no such application is made within sixty days after the forfeiture has been approved by the Secretary of Commerce and Communications, the right to apply to the courts shall be considered waived.

SEC. 17. At any time after twenty years from the date of this Act, the Government of the Philippine Islands or any political subdivision thereof to which the right may be assigned, may purchase, and the grantee shall sell thereto all of its plant, poles, wires, buildings, real estate, and all other property used in the enjoyment of this franchise, at a valuation based upon the net earnings of the grantee, the valuation to be determined, after hearing evidence, by the Supreme Court of the Islands, sitting as a board of arbitrators, whose decision, by a majority of the members thereof, shall be final.

SEC. 18. Wherever in this franchise the term "grantee" is used, it shall be held and understood to mean and represent Canuto Octavio Borromeo and Vicente A. Racaza, their representatives, successors, and assigns.

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

Approved, March 5, 1918.

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