

AN ACT TO PROVIDE FOR THE GRANTING OF A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, AND POWER SUPPLY SYSTEM IN THE CITY OF BAGUIO, PHILIPPINE ISLANDS.

Act No. 1968, December 07, 1909

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By authority of the United States, be it enacted by the Philippine Commission, that:

Section 1. Authority is hereby granted for the construction, maintenance, and operation of an electric light, heat, and power supply system in the city of Baguio, Philippine Islands, and the Governor-General is hereby authorized on behalf of the Government of the Philippine Islands to offer for public bidding the franchise set forth in this Act and to grant said franchise to the best bidder upon such terms as to percentage of gross earnings to be paid in lieu of taxes on the franchise or earnings thereof and the rates to be charged by the grantee of said franchise for his services to subscribers, and under, such conditions as to time of advertisement and manner of bidding as he may deem fit.

SEC. 2. The franchise referred to in section one hereof shall be substantially in the following form:

"FRANCHISE

"ARTICLE 1. There is hereby granted for the period of fifty years from and after the passage of this Act, the right and privilege to erect, construct, maintain, and operate in, along, and over any and all streets, thoroughfares, and public places within the city of Baguio, poles, wires, and all necessary apparatus and appurtenances for the transmission and distribution of electric currents for electric power, heat, and light, and for any other purpose for which electricity may be used, and to furnish electric power, heat, and light within said city of Baguio, for municipal, domestic, or manufacturing uses and for any other use to which electricity may be put, and to charge and collect such tolls, rates, and compensation such power, heat, light, and use as may from time to time be previously approved by the Board of Rate Regulation created by Act Numbered Seventeen hundred and seventy-nine, entitled 'An Act to create a board for the regulation of rates chargeable by public-service corporations in the Philippine Islands, and for other purposes,' and to which said Act this franchise is expressly made subject, or by any successor to said Board, or by any future Act or law.

"ART. 2. The poles erected by the grantee shall be of such height as to support wires strung thereon at a distance of at least twenty feet above the ground, shall not be of such crooked or ungainly appearance as to disfigure the streets, and shall be erected and placed in a good and workmanlike manner in accordance with a plan which shall be previously approved by the city authorities; 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 city engineer on the application of such person 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, if the Philippine Commission or its successors shall so direct: Provided, That the main feed wire shall be constructed, maintained, and operated only on streets designated by the city council of the city of Baguio within three kilometers of the power plant: Provided further, That the point at which the electric power, heat,

or light is to be supplied, as mentioned in this section, be not more than fifty meters from the main lines or feed wires maintained by said grantee : And provided further, That the grantee shall have the right to demand and collect an amount equal to the actual cost of labor and material in making connections for supplying electric light, heat, or power at distances exceeding fifty meters from any such main feed line or wire, but such amount shall be collected only for the excess distance over and above said fifty meters.

"ART. 3. All apparatus and appurtenances used by the grantee 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 and unobstructed use of said streets, thoroughfares, and public places: Provided, That the grantee herein shall, whenever the Philippine Commission or its successors so direct, place said wires in underground pipes or conduits at his own expense and without any cost or damage to the city of Baguio, or the Government of the Philippine Islands.

"ART. 4. Whenever it shall be necessary in the erection of said poles to take up any portion of the sidewalks or dig up the ground in or near the sides or the corners of the streets or thoroughfares, or in any public place, then the said grantee shall, after said poles are erected, without delay, replace said sidewalks and ground in a neat, workmanlike manner and remove from said sidewalks, streets, thoroughfares, or public places all rubbish, sand, and dirt or other material which may have been placed there, taken up, or dug up in the erection of said poles, and shall put such sidewalk, street, thoroughfare, or public place in as good a condition as it was before it was taken up or disturbed.

"ART. 5. Whenever any person has obtained permission to use any of the streets of the city 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 city council of the city of Baguio, 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 city council, in writing, and served upon said grantee or his 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 mayor of the city of Baguio, with the approval of the city council first had, shall raise or remove and replace such wires at the expense of said grantee, for the purpose aforesaid.

"ART. 6. Said grantee contracts and covenants hereby to indemnify the said city of Baguio for any injury arising from any casualty or accident 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, and for all valid claims against said city for damages caused by said wires or electric currents conducted thereby.

"ART. 7. Said grantee shall file his acceptance of this franchise with the Secretary of Commerce and Police within ninety days from the date of the passage of this Act, shall commence work within ten days from and after the date of filing such acceptance, shall complete the system and have the same in operation within eight months from the date of such acceptance, shall supply light to the Government buildings now in the course of erection on what is known as Government Center in said city on or before the fifteenth of March, nineteen hundred and ten, and shall thereafter maintain a first-class electric light, heat, and power service. In consideration of the franchise hereby granted the grantee shall pay quarterly into the city treasury of Baguio, for its benefit, such percentage of the gross earnings of the enterprise as may have been agreed upon at the time of the granting of this franchise, which percentage shall not be less than one and one-half percentum of such gross earnings and, when promptly paid shall be in lieu of all provincial and municipal taxes on this franchise and the privileges granted hereinunder except taxes on real estate, but the agreement may provide that said percentage of the gross earnings shall not begin until two years from the date of the acceptance of this franchise.

"ART. 8. At the time of filing the acceptance mentioned in the last, preceding article, the grantee shall deposit in the city treasury of Baguio two thousand pesos, Philippine currency, as a guarantee of the faithful performance of the conditions mentioned in this franchise, and in case the work to be done under this franchise is not begun within the time specified, or is not completed within the time provided, said deposit may be forfeited Forfeiture at. the option of the Governor-General, as liquidated damages for the breach of the contract involved in the acceptance of this franchise, and this franchise shall thereupon be and become null and void. In case of the fulfillment of the conditions by this article provided, said deposit shall be returned by the city treasurer of Baguio to the grantee upon proper certificate of the city engineer of Baguio of the fulfillment of said conditions: Provided, That if work shall be begun by the grantee within the time specified the fluids deposited may be returned to the grantee as the work progresses, in monthly installments in the proportion which the work done bears to the work to be done: And provided further, That the city treasurer may accept duly executed and satisfactory fidelity bonds of a fidelity company in lieu of the cash deposit by this article required.

"ART. 9. The city of Baguio 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.

"ART. 10. This franchise is granted with the understanding and upon the condition that it shall be subject to amendment, repeat by alteration, or repeal by the Congress of the United States as provided in section seventy-four of the Act of Congress approved July first, nineteen hundred and two, entitled 'An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' 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 government by which such lands were respectively granted.

"ART. 11. 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 so issued. Neither shall said grantee declare any stock or bond dividend.

"ART. 12. The books of the grantee shall always be open to the inspection of the city treasurer and the Insular Auditor or a deputy designated by either of them for the purpose, and it shall be the duty of the grantee to submit to the city 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 city treasurer to the Insular Auditor, who shall keep the same on file.

"ART. 13. The grantee herein may sell, lease, give, grant, convey, or assign this franchise and all property and rights acquired thereunder to any person, company, or corporation competent to conduct the business authorized thereby, but no title to this franchise or to the property or rights acquired thereunder shall pass by sale, lease, gift, grant, conveyance, transfer, or assignment to the vendee, donee, transferee, lessee, or assignee, or be enjoyed by him until he shall have filed in the office of the Secretary of Commerce and Police an agreement in writing agreeing to comply with all the terms and conditions imposed on I he grantee by the franchise and accepting the said franchise subject, to all its existing terms and conditions.

"ART. 14. The city council of the city of Baguio, after hearing the grantee, shall have the power, with the approval of the Governor-General, 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 majeure. Against such declaration or forfeiture the grantee may apply to any court of competent jurisdiction for such relief as to him may seem proper, but if no such application is made within sixty days after the forfeiture has been declared by the city and approved by the Governor-General the

right to apply to the courts shall be considered waived.

"ART. 15. Wherever in this franchise the term 'grantee' is used it shall be held and understood to mean and represent the

said....., his, representatives, successors, or assigns."

SEC. 3. The public good requiring the speedy enactment of this bill, the passage "of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws." passed September, twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, December 7, 1909.

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