

AN ACT AUTHORIZING THE GRANTEE OF THE FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, POWER, AND WATER SUPPLY SYSTEM IN THE MUNICIPALITY OF ZAMBOANGA, MORO PROVIN...

Act No. 1995, July 23, 1910

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

SECTION 1. Authority is hereby granted to erect, construct, maintain and operate an electric light, electric power, and water supply system in the municipality of Zamboanga, Moro Province, 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 paid in lieu of provincial and municipal taxes on the franchise or earnings thereof, which shall in no case be less than one and one-half per centum and under such terms and conditions as to time of advertisement and manner of bidding, as he may deem proper.

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

"FRANCHISE.

"ARTICLE 1. There is hereby granted to..... , for the period of fifty years from and after the passage of this Act, the right and privilege to construct, maintain, and operate an electric light, electric power, and water supply system in the municipality of Zamboanga, Moro Province, Philippine Islands, and the right and privilege to erect, construct, maintain, and operate in, along, and over any and all streets, thoroughfares, and public places within said municipality poles, wires, and all necessary apparatus and appurtenances for the transmission and distribution of electric currents for electric power and light and for any other purpose, excepting wireless, for which electricity may be used, and to construct, lay, maintain, and operate above or under the ground on the said grantee's duly acquired separate right of way or under the ground in all streets, thoroughfares, and public places within said municipality, pipes, mains, and conduits for the conveyance of water throughout said municipality, and to furnish electric power, light, and water within said municipality for governmental, municipal, domestic, or manufacturing uses and for any other use, excepting wireless, to which electricity or water may be put, and to charge and collect such tolls, rates, and compensation for such power, light, and water, 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 and brackets erected by the grantee shall be Poles and brackets 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 engineer of the Moro Province. All water pipes and mains within the fire water pipes or limits of the municipality of Zamboanga, as the same are now established or may hereafter be extended by law, shall be placed under the ground a distance of at

least forty-five centimeters to the top of said pipes or mains. Between the settling tanks and intake and such aforesaid fire limits of the municipality the water pipes or mains may be placed above the ground, on the grantee's separate right of way, except where the same shall cross a street, thoroughfare, or public highway, in which case the same must be placed the aforesaid distance under said street, thoroughfare, or public highway. The construction and placing of water pipes and mains shall be done in a good and workmanlike manner in accordance with a plan which shall be previously approved by the engineer of the Moro Province; and whenever it shall become necessary to change the level of any portion of the same in order to avoid interference thereof with any public sewer or drain constructed or about to be constructed, the grantee herein shall forthwith change so much of said water pipes and mains as the engineer of the Moro Province shall in writing direct; and said grantee shall supply electric power, light, and water to any applicant for the same Power, light and water within thirty days after the date of his application, and, as between water-such applicant and other like applicants, in the order of the date of his application to the limit of the capacity of the plant of said grantee, to be determined by the engineer of the Moro Province on the application of such person or said grantee: and should the demand for electric power, light, and water 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 distributing systems of feed wires and Distributing eys-water mains shall be constructed, placed and maintained, and operated only on streets, thoroughfares, and public places within the municipality designated by the engineer of the Moro Province with the approval of the legislative council: Provided further, That the point at which the electric light and power is to be supplied, as mentioned in this article, 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 and 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: And provided further, That the grantee in supplying water to applicants as above provided shall make all connections with the water mains maintained by said grantee and shall have the right to demand and collect therefor an amount equal to the actual cost of the labor and material involved in making such connection.

"ART. 3. 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 and unobstructed use of said streets, thoroughfares, and public places; the water pipes and mains shall be placed, as hereinbefore stated, a distance of at least forty-five centimeters below the surface of the ground or street to the top of said pipes or mains, and when so placed along or across any street, thoroughfare, or public place shall be so placed and maintained as not in any manner to interfere with the free and unobstructed use of said underground wires, street, thoroughfare, or public place: Provided, That the grantee herein shall, whenever the Philippine Commission 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 Zamboanga, or the Government of the Moro Province, or of the Philippine Islands.

"ART. 4. Whenever it shall be necessary in the erection of poles or the laying of pipes or mains to take up any portion of the sidewalks or dig up the ground in any street or near the sides or corners of the streets or thoroughfares, or in any public place, then the said grantee shall, after said poles and pipes are erected and placed, without delay, replace said sidewalks and ground in a neat, workmanlike manner and remove from said sidewalks, streets, and 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, the placing or laying of pipes or mains, and shall put such sidewalk, street, thoroughfare, or public place in as good repair and 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 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 engineer of the Moro Province, 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, and when the same has been accomplished shall replace such wires in a good and workmanlike manner. Such notice shall lie a notification to said grantee from said engineer in writing, stating and directing the work to be performed by the said grantee in and about such raising or removal and replacing of such wires and shall be 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 engineer of the Moro Province 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 municipality of Zamboanga 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, wires, pipes, mains, conduits, and all other apparatus and appliances in a good and safe condition, and for all valid claims against said municipality for damages caused by said wires or electric currents conducted thereby, or by said pipes, mains, conduits, and other apparatus and appliances or water conveyed or contained therein. The grantee herein shall be notified in writing by the municipality as soon as practicable of the pendency of all claims arising in cases wherein said grantee may be liable to said municipality under the provisions of this article.

"ART. 7. Said grantee shall have the right to build, erect, construct, and maintain a dam across the Tumaga River at a place agreed upon between the legislative council of the Moro Province and the grantee, and specifically designated and located in plans and specifications to be filed with, and approved by, the engineer of the Moro Province, and with the municipality of Zamboanga, for the purpose of impounding water of the said Tumaga River, for power and other purposes as provided in this Act, and shall have the right to divert and take from the said Tumaga River water not to exceed three million seven hundred and eighty-five thousand four hundred and thirty liters during twenty-four hours, or so much thereof as shall be sufficient to supply its water system. Water impounded by the dam placed across said river and used for generating power shall be returned to said river in such manner and place as the engineer of the Moro Province, with the approval of the legislative council, shall direct.

"ART. 8. Said grantee shall have the right, and is hereby empowered to acquire and hold by grant, lease, or purchase sufficient land way for reservoir purposes, dam and building sites, and a right of way separate from all streets, thoroughfares, and public highways, which shall not exceed ten meters in width, from the site of the dam to the above-mentioned fire limits of the municipality, and for the purpose of acquiring said land or any part thereof may condemn the same or any part thereof, by condemnation proceedings in any court of competent jurisdiction, as provided by law.

"Art. 9. Said grantee shall file his acceptance of this franchise Acceptance, with the Secretary of Commerce and Police within ninety days from the date of the award of this franchise, and shall commence work within thirty days from and after the date of the filing of such acceptance, shall complete the water system and have the same in operation within eighteen months from the date of such acceptance, shall complete the electric light and power system within three years from the date of such acceptance, and on or before the dates and times above respectively specified shall supply water, light, and power to all applicants, as hereinbefore provided, and shall thereafter maintain a first-class electric light, power, and water system and furnish first-class service to public and private consumers. In consideration of the franchise granted, the grantee shall pay quarterly into the municipal treasury of the municipality of Zamboanga, for its benefit, the per centum of the gross earnings of the enterprise agreed upon at the time of the award of this franchise, which shall be in lieu of all provincial and municipal taxes on this franchise and the privileges granted hereunder except taxes on real estate: Provided, That said grantee shall be exempt from the payment of such per centum for a period of three

years from the date of the acceptance of this franchise.

"ART. 10. At the time of filing the acceptance mentioned in the last preceding article, the grantee shall deposit in the treasury of the municipality of Zamboanga the sum of two thousand pesos, Philippine currency, as a guarantee of the faithful performance of the conditions mentioned in this franchise, and the agreement under which the franchise is awarded, and in case the work to be done under this franchise is not begun within the time specified, completed within the time provided, said deposit may be forfeited at the option of the governor of the Moro Province, 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 treasurer of the municipality of Zamboanga to the grantee upon proper certificate of the engineer of the Moro Province of the fulfillment of said conditions : Provided, That if work shall be begun by the grantee within the time specified the funds 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, such proportion to be determined by the engineer of the Moro Province: And provided further, That for good cause shown the governor of the Moro Province may extend the time for the completion of the whole or any part of the construction provided for in this franchise.

"ART. 11. The municipality of Zamboanga, without compensation shall have the privilege of using tinpoles 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.

"ART12. This franchise is granted with the understanding congress 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 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, or the existing laws of the Philippine Islands, 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. 13. No stocks or bonds shall be issued by any corporation owning or operating under this grant, 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; nor shall such corporation declare any stock or bond dividend.

"ART. 14. The books of the grantee shall always be open to inspection by the Insular Auditor, the municipal treasurer of Zamboanga, and the treasurer of the Moro Province, or either of them, personally or by his deputy. It shall be the duty of the grantee to submit to the municipal treasurer quarterly reports in triplicate showing the gross receipts and the net receipts for the quarter past and the general condition of the business, one of which copies shall be forwarded by the municipal treasurer to the district auditor of the Moro Province, and one to the Insular Auditor, who shall keep the same on file.

"ART. 15. 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, lessee, donee, transferee, 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 to comply with all the terms and conditions imposed on the grantee by the franchise and accepting the said franchise subject to all its existing terms and conditions: Provided, however, That no transfer of this franchise shall become effective under the provisions of this article until it has been previously approved in writing by the Secretary of Commerce and Police.

"ART. 16. The municipal council of the municipality of Zamboanga, after hearing the grantee, shall have the

power, with franchise the approval of the governor of the Moro Province, 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 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 declared by the municipality and approved by the governor of the Moro Province, the right to apply to the courts shall be considered waived.

""ART. 17. Wherever in this franchise the term 'grantee' is "Grantee" defined used it shall be held and understood to mean and represent the said, its 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, July 23, 1910.

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