AN ACT GRANTING TO EVARISTO P. SANCHEZ A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, AND POWER SYSTEM IN THE MUNICIPALITIES OF TAYUG AND SAN MANUEL, PRO...

Act No. 3503, December 08, 1928

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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 Thirty-one hundred and eight and amendments thereof, applicable thereto, there is hereby granted to Evaristo P. Sanchez, for a period of thirty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat, and power system for the purpose of generating and distributing electric light, heat, and power for sale within the limits of the municipalities of Tayug and San Manuel, Province of Pangasinan, Philippine Islands. The grantee shall further have the right and privilege to install, lay, and maintain on all the streets, public thoroughfares, bridges, and public places within said limits, poles, conductors, interrupters, transformers, cables, wires, and other overhead appliances, and all other necessary apparatus and appurtenances for the furnishing and distribution of electric current, and to supply, sell, and furnish such current to any person, corporation, or public or private concern within said limits for provincial, 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 and conventional rates for the use of same: Provided, That the grantee shall not exercise the rights or privileges under this franchise nor shall commence any construction whatever pursuant to this franchise, except and until it has obtained from the Public Service Commission a Certificate of Public Necessity and Convenience of exercising such rights and privileges and authorizing such construction in accordance with Act Numbered Thirty-one hundred and eight, as amended, and has filed said certificate with the Secretary of Commerce and Communications upon accepting the terms and conditions of this franchise: And provided, further, That if the grantee does not file the proper application for said certificate with the Public Service Commission within three months from the date of the approval of this Act, this franchise shall be null and void.

SEC. 2. 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 for the same, in accordance with a plan approved by the provincial or municipal authorities concerned, represented by the provincial governor or municipal president, as the case may be, 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, 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 electrical engineer of the Public Service Commission upon petition of 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 by said grantee to meet such demand, in accordance with the decision of the Public Service Commission or its lawful successor: Provided, however, That in case the point at which the

electric light, heat, or power is to be supplied, is more than thirty meters from the lines or wires operated by said grantee, the latter shall not be obliged to furnish said service.

SEC. 3. All apparatus and appurtenances used by the grantee shall be modern and first class in every respect, and the wires to be used for the distribution and transmission system 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 public thoroughfares nor cause any injury to the public, danger of fire, or damage and inconvenience to the owners of property: Provided, That in the maintenance " and operation of his plant and system for the transmission and distribution of electric current, the grantee shall always be subject to such reasonable regulations as the municipal councils of Tayug and San Manuel and the provincial board of Pangasinan may promulgate in the premises, and also to the regulations prescribed by the National Electrical Code of America: Provided, further, That the grantee shall, whenever the Philippine Legislature, upon recommendation of the Public Service Commission or its legal successor, so directs, place said wires in underground pipes or conduits at his own expense, and without any cost and prejudice to the municipalities above mentioned.

SEC. 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 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 or arrange said streets or public thoroughfares, removing 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 roads determined upon by the provincial board of Pangasinan, or by reason of the extension of streets or plazas determined upon by the municipal councils of the municipalities above mentioned, to change the location 01 said poles, such change shall be made by the grantee, his successors, or assigns, at his expense, without delay, and said poles shall be placed where directed by said provincial board or said municipal councils.

SEC. 5. Whenever any person has obtained permission to use any of the streets or public thoroughfares of the municipalities above mentioned for the purpose of removing any building or in the prosecution of any municipal work or for any other just cause whatsoever, making it necessary to raise or remove any of said poles or electric wires which may obstruct the removal of said building or hinder the prosecution of said works, the said grantee, upon written notice by the municipal presidents of said municipalities served upon said grantee at least forty-eight hours in advance, 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 prosecution of said work, and the person or entity at whose request the building has been moved or the construction undertaken, shall pay one-half of the actual cost of removing or raising and of replacing the poles, wires, and other overhead or underground conductors. The notice shall be served in the usual form, and in case of the refusal or failure of the grantee to comply with such notice, said municipal presidents with the proper approval of the municipal councils first had, shall order such poles or 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 Pangasinan, whose decision shall be final.

SEC. 6. The grantee shall be liable 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. 7. Said grantee shall file his written acceptance of this franchise with the Secretary of Commerce and

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Communications within one hundred and twenty days from the date when he obtained the certificate required by section one of this Act and shall commence work under the supervision and subject to the approval of the electrical engineer of the Public Service Commission, within six months time from and after the date of filing such acceptance, unless prevented by the 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 treasurers of the municipalities above named, one per centum of the gross earnings of his electrical business during the first twenty years, and two per centum during the remaining fifteen years of the life of this franchise.

SEC. 8. Upon the acceptance of this franchise as provided in the last preceding section, the grantee shall have deposited in the Insular Treasury or with any of its agents in the Province of Pangasinan 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 he will begin the electric light, heat, and power business and may be completely provided with all necessary equipment therefor and ready to begin operation in accordance with the terms of this franchise: Provided, however, That if such deposit is in cash, it may be made in some official depository of the Government in the name of the grantee and subject to the order of the Insular Treasurer, who shall retain the evidence of the deposit so made. In this case, as well as in the case of the deposit being made in negotiable bonds or other securities, as provided in this section, the interest of the cash deposit or of the bonds or securities deposited, if any, shall belong to the grantee.

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 render such service within eighteen months after the date of such acceptance, in accordance with the terms of the 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 provincial government of Pangasinan, as damages for the breach of the implied contract involved in the acceptance of this franchise. In case the grantee begins to render the electric light, heat, and power service, and is ready for operation under this franchise, within the time limits specified, the deposit provided for in this section shall, upon order by the Public Service Commission or its legal successor, be returned by the Insular Treasurer 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. 9. The municipalities above named shall have the; privilege, without compensation, of using the poles of the grantee for the purpose of installing, maintaining, and operating a police telephone and fire alarm system; but the wires of such telephone or 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. 10. 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

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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 which were the owners thereof upon the date on which this franchise was granted, and all property of the grantee used in connection with this franchise shall become the property of the Insular Government.

SEC. 11. In case of sale, transfer, granting, conveyance, lease or giving in usufruct of this privilege and the properties and rights acquired by virtue of this franchise to a company, association or corporation, the assignee 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 Service Commission. Nor shall said assignee declare any stock or bond dividend.

SEC. 12. The books and accounts of the grantee shall always be open to the inspection of the provincial treasurer of Pangasinan or his authorized representative, 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.

SEC. 13. The grantee shall pay on his real estate, buildings, plant, machinery, and other personal property the same taxes as are now or may hereafter be required by law from other persons.

SEC. 14. The grantee herein shall not, without the approval of the Philippine Legislature first had, lease, grant, sell, convey, or give in usufruct this franchise and the property and rights acquired thereunder to any person or corporation: Provided, That, to give effect and validity to such lease, granting, sale, conveyance, or giving in usufruct, it shall be necessary to file in the office of the Secretary of Commerce and Communications an agreement in writing by which the person or corporation in whose favor such lease, grant, sale, conveyance, or giving in usufruct is made, shall bind himself to comply with all the terms and conditions imposed upon the grantee by this franchise, and to accept the same subject to all existing terms and conditions.

SEC. 15. The Public Service Commission, or its legal successor, after hearing the interested parties, upon notice and order in writing, shall have the power to declare the forfeiture of this franchise and all rights inherent in the same for failure on part of the grantee to comply with any of the terms and conditions thereof, unless such failure shall have been directly and primarily caused by the act of God, the public enemy, or force majeure. Against such declaration of forfeiture by the Public Service Commission or its legal successor, the grantee may apply for the remedies provided in section thirty-five of Act Numbered Thirty-one hundred and eight, as amended.

SEC. 16. 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 in part upon the net earnings of the grantee and its true books value, making the proper deduction for depreciation; in part on the cost of the actual reproduction of said property, less depreciation, and in part on the original cost of said property, less depreciation, f the valuation to be determined, after hearing evidence, by the Supreme Court of the Philippine Islands, sitting as a board of arbitrators, whose decision, by a majority of the members thereof, shall be final.

SEC. 17. The rates for the light service, flat rate as well as meter rate, fixed by the grantee, shall always be subject for regulation by Act of the Philippine Legislature or by the authorities authorized by law, and shall in no case be in excess of forty centavos per kilowatt hour.

SEC. 18. Wherever in this franchise the term "grantee" is used, it shall be held and understood to mean and

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represent Evaristo P. Sanchez, his representatives, successors, or assigns.

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

Approved, December 8, 1928.

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