

AN ACT GRANTING TO RAFAEL CONSING A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN A TELEPHONE SYSTEM IN THE CITY OF BUTUAN.

REPUBLIC ACT NO. 697, May 09, 1952

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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 Constitution, applicable thereto, there is hereby granted to Rafael Consing, hereinafter called the grantee, his successors or assigns, for a period of fifty years from the approval of this Act, the right and privilege to construct, maintain, and operate in the City of Butuan a telephone system to carry on the business of the electrical transmission of conversations and signals in said city. For this purpose, the grantee is hereby authorized to use all streets and public thoroughfares of the city for the construction, maintenance and operation of all apparatus, conductors, and appliances necessary for the electrical transmission of conversations and signals, to erect poles, string Wires, build conduits, lay cables, and to construct, maintain 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 city, and overhead or underground 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 grantee shall be located in places designated by the city authorities: Provided, That all poles erected and used by the grantee or his successors 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 accordance with professional standards approved by the Public Service Commission; and said poles shall be of such a 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 shall 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 said city, said wires or conductors shall be placed in one cable, and that whenever more than eight hundred pairs of wires or other conductors are carried on one line of poles, said wires or conductors, shall be placed underground by the grantee, his 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 grantee, his 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 City of Butuan: Provided, however, That any public place, highway, 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 of conduits, shall be repaired and restored to the satisfaction of the City Engineer of the city, and removing from the same all rubbish, 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 said city for the purpose of removing any building or in the prosecution of any city work or for any other cause whatever, 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 grantee, upon notice by the Municipal Board of the City, served upon said grantee, 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 Board and served upon' the grantee or his 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 grantee to comply with such notice, the Mayor of the city, with the proper approval of the Municipal Board first had, shall order such wires or conduits to be raised or removed at the expense of the grantee for the purpose aforesaid.

SEC. 5. All apparatus and appurtenances used by the grantee, his 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 grantee, his 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 grantee, his 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 grantee, his 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

SEC. 7. The grantee, his successors or assigns, shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition, the grantee, his successors or assigns, shall pay to the Treasurer of the Philippines each year, within ten days after 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 grantee, his 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 grantee shall file with the Public Service Commission his application for a certificate of public necessity and convenience. In case of failure to make said application within the period established, this franchise shall become null and void.

SEC. 9. The grantee shall not commence any construction whatever pursuant to this franchise without first obtaining a certificate of public necessity and convenience 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 grantee shall not exercise any right or privilege under this franchise without first having obtained such certificate of public necessity and convenience from the Public Service Commission. The Public Service Commission shall have the power to issue such certificate of public necessity and convenience 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 the public convenience, and the Commission shall have the power

in so approving 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 on which the grantee shall commence construction and the period within which the work shall be completed. In order to avail himself of the rights granted by such certificate of public necessity and convenience, the grantee shall file with the Public Service Commission, within such period as said Commission shall fix, his 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 grantee 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 grantee 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 grantee shall have been prevented by one or more of all such causes from commencing the telephone service within the period specified, the time during which he shall have been so prevented shall be added to said period: Provided, further, That failure on the part of the grantee to accept the conditions of this franchise and those imposed in the certificate of public necessity and convenience shall automatically void this franchise.

SEC. 10. Upon the written acceptance of the terms and conditions of this franchise, the grantee shall deposit with the National Treasurer one 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 one thousand pesos, as an earnest of good faith in accepting this franchise and a guaranty that, within six months from the date of the granting by the Public Service Commission of a certificate of public necessity and convenience authorizing the construction and operation by the grantee, of a telephone service in the City of Butuan the grantee, his 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, and all interest accruing and due on such deposit shall be collected by the Treasurer of the Philippines and paid to the grantee, his 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 grantee, his successors or assigns, on demand.

Should the said grantee, his 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 date of the granting of said certificate of public necessity and convenience, 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 public necessity and convenience the telephone service in the City of Butuan applied for by the grantee 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, or 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 grantee, his successors or assigns. Should the said grantee, his successors or assigns, begin operating the business of transmitting messages by telephone and be ready to operate according to the terms of the franchise, the telephone service in the City of Butuan within twelve months from the date of the granting of said certificate of public necessity and convenience, then and in that event the deposit prescribed by this section

shall be returned by the National Government to the grantee, his successors or assigns, upon recommendation of the Public Service Commission, as soon as the telephone service in said city applied for by the grantee has been installed in accordance with the terms of this franchise: Provided, further, That all the time during which the grantee, his 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 grantee, his successors or assigns, shall always be open to the inspection of the provincial auditors or their authorized representatives, and it shall be the duty of the grantee 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 rights and power to grant to any corporation, association, or person other than the grantee franchise for the telephone or electrical transmission of messages or 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 conversations 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 grantee of this franchise or his successors or assigns, to remove, relocate, or replace his poles, wires or conduits; out in such case the reasonable cost of the removal, relation, or replacement shall be paid by the grantee of the subsequent franchise or his successors or assigns to the to the grantee of this franchise or his successors or assigns.

SEC. 13. The grantee, his successors or assigns, shall hold the National Government, provincial, city and municipal governments harmless from all claims, accounts, demands, or action 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 grantee, his successors or assigns.

SEC. 14. The rates 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 poblacion of the City shall also be approved by the Public Service Commission.

SEC. 15. The grantee 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 grantee 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, however, That the grantee, his 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 system.

SEC. 17. The Philippine Government shall have the privilege, without compensation, of using the poles of the grantee to attach ten-pin crossarm, and to install, maintain and operate wires of its telegraph system thereon: Provided, however, That the Bureau of Telecommunications shall have the right to place additional crossarms and wires on the poles of the grantee by paying a compensation, the rate of which is to be agreed upon by the Director of Telecommunications and the grantee: Provided, further, That in case of disagreement as to the rate of contract

rental, same shall be fixed by the Public Service Commission. The City of Butuan, shall also have the privilege, without compensation, of using the poles of the grantee, 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 grantee.

SEC. 18. The grantee shall purchase the property used by the provincial government for the operation of a similar service in the province of Agusan and the provincial government shall sell said property with all rights and privileges now enjoyed by said provincial, government, at the price agreed upon by the grantee and the provincial board. In case of disagreement as to purchase price, the Public Service Commission shall be authorized to act as referee and to determine the reasonable price at which said property shall be conveyed, after hearing both parties, and its decision shall be final.

SEC. 19. It is expressly provided that, in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender his franchise and will turn over to the Government said system and all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 20. This Act shall take effect upon its approval.

Approved, May 9, 1952.

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