

AN ACT TO CREATE A CORPORATION TO BE KNOWN AS THE BOHOL ELECTRIC LIGHT COMPANY, AND TO GRANT TO THE SAME A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, A...

Act No. 2831, March 06, 1919

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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. A corporation is hereby created, to be known as the Bohol Electric Light Company, the main office of which shall be in the municipality of Tagbilaran, Bohol, Philippine Islands, and which shall exist for a period of fifty years, from and after the date of the approval of this Act.

SEC. 2. The said corporation shall be subject to the provisions of the Corporation Law in so far as they are not inconsistent with the provisions of this Act, and shall have the general powers mentioned in said law and such other powers as may be necessary to carry out the purposes mentioned in section nine of this Act.

SEC. 3. The capital of said corporation shall be two hundred thousand pesos, Philippine currency, divided into eight thousand shares of stock having a par value of twenty-five pesos each, and no stock of said corporation shall be issued at less than par nor except for cash.

Shares of stock subscribed on or before December thirty-first, nineteen hundred and nineteen, shall be paid as follows : Twenty-five per cent of the value at the time of the subscription; twenty-five per cent of the value on or before August thirty-first, nineteen hundred and nineteen; twenty-five per cent of the value on or before October thirty-first, nineteen hundred and nineteen; and twenty-five per cent of the value on or before December thirty-first, nineteen hundred and nineteen. Shares subscribed after December thirty-first, nineteen hundred and nineteen, shall be paid in the form and manner prescribed by the board of directors.

SEC. 4. The provincial governor of Bohol, on behalf of the Province of Bohol, shall subscribe for not less than fifty-one per cent of said capital stock, and the remainder may be offered to the municipalities of the Province of Bohol, to other public or semi-public entities established by law, or to the public, at a price not less than par which the board of directors shall from time to time determine.

The shares of stock belonging to the Province of Bohol shall not be encumbered without express authorization of the Secretary of the Interior, and the sale, transfer, or disposal of said shares of stock, or any part thereof, except to the Insular Government, is hereby prohibited. The provincial board of Bohol shall be the representative of the Province of Bohol with regard to the shares of stock acquired by it and shall take part in all the proceedings of the corporation, the same as any other stockholder, stating its conformity or nonconformity by means of resolutions passed for said purpose, but when at any meeting of the corporation, the subject of the disposal, alienation, or encumbrance of any property belonging to the corporation shall be considered, no action of the provincial board of Bohol shall be valid unless it be in the shape of a resolution approved by the Secretary of the Interior.

SEC. 5. The provincial board of Bohol, Philippine Islands, is hereby authorized to appropriate, out of any funds belonging to the Province of Bohol not otherwise appropriated, the sum of one hundred thousand and twenty-five pesos, to purchase one half plus one of the shares of stock of the corporation known as the Bohol Electric Light Company, and in case there shall be no funds available for said purpose in the said treasury, or, in the event of there being such, if the same are not sufficient, the provincial board of Bohol is hereby authorized to contract the necessary loans, with the approval of the Secretary of the Interior first had.

SEC. 6. Said corporation may make use of the services of the provincial fiscal, in his capacity as attorney, of the engineer, of the district auditor, or of the provincial treasurer, for the performance of private work of the corporation, and the designation or appointment of said officers shall be subject to approval, or to revocation at any time, by the proper department head. Aside from the additional compensation for the officer appointed in accordance with the provisions of this section agreed upon between the parties, which compensation such officer may receive, any provision of existing law to the contrary notwithstanding, said corporation shall refund to the Bureau or office concerned such reasonable amount for the services rendered as may be determined by the Insular Auditor, whose decision in the premises shall be binding upon all parties.

SEC. 7. After deduction of the administration expenses, the net profits or gains resulting from the operations of said corporation shall be apportioned annually as follows:

For the creation and maintenance of a reserve fund, a sum equal to twenty per cent of the net profits. The remainder of said profits shall be distributed among the stockholders in the form of dividends, unless a majority of the stockholders should resolve that all or part of the dividends available for distribution be set aside to extend the business of the corporation.

SEC. 8. All profits assigned as dividends to the shares, of the Province of Bohol shall be paid into the treasury of said province, for the funds from which the sums invested by the province in shares of stock were taken, and in proportion to such sums.

SEC. 9. Subject to the conditions established in this Act and to the provisions of Act Numbered Twenty-three hundred and seven, as now or hereafter amended, that may be applicable, the corporation known as the Bohol Electric Light Company, created by this Act, which shall in the following sections be briefly designated as the grantee, is hereby granted the right, privilege, and authority, for a period of fifty years from and after the approval of this Act, to construct, maintain, and operate a dam in the Loboc River, municipality of Loboc, Bohol, for the use of the waters of said river for the generation and development of the necessary power for the operation of an electric light, heat, and power system on all roads, streets, thoroughfares, and public places of the Province of Bohol, Philippine Islands, and its municipalities, and for the placing of poles, wires, and all necessary apparatus and appurtenances for the transmission and distribution of electric currents for electric power, heat, and light in said Province of Bohol, for public, 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 and officers authorized by law: and shall in no case exceed thirty centavos per kilowatt: 'Provided, further, That this franchise shall not take effect until the grantee shall have obtained from the Public Utility Commission a certificate showing' the public necessity and convenience of the same, in accordance with the purposes 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 five months from the date of its organization, this franchise shall become null and void.

SEC. 10. 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 of the municipalities in which they are erected, and shall be placed with due regard for the public safety so as not to be a danger to the same, in accordance with plans approved by the respective municipal authorities, represented by their municipal presidents, 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 grantee, and should the demand for electric power, heat, and light at any time exceed 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 councils concerned: Provided, That the point at which the electric power, heat, or light is to be supplied, shall not be more than thirty meters from the lines or wires operated by said grantee. Sec. 11. 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 municipalities concerned.

SEC. 12. 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 respective municipal councils, 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 councils.

SEC. 13. 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 president concerned, 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 the person or entity at whose request the building was removed or the construction work done, shall be required to pay one half of the actual cost of removing "or raising and replacing the poles, wires, or other overhead or underground conductors. Such notice shall be a duly adopted resolution of the municipal council concerned, 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 concerned, 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.

SEC. 14. The grantee shall be liable to the municipalities concerned 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. 15. The right, privilege, and authority granted to the Bohol Electric Light Company in this Act shall not take effect nor be valid until the grantee shall have filed with the Secretary of Commerce and Communications, within

one hundred and twenty days from and after the date of the issuance of the certificate of public necessity and convenience required in section ten of this Act, its acceptance of each and all of the conditions of this right, privilege, and authority mentioned in the body of this Act, and, besides, of the following condition:

"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 further binds itself to exact a similar engagement from its administrators, agents, successors, and assigns." The grantee shall commence work under the supervision and subject to the approval of the district engineer of Bohol within eighteen months 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 commence to furnish electric current, at least in the municipality of Tagbilaran, Province of Bohol, within thirty-six months from and after 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 and during the life of the same, the grantee shall pay quarterly, at the end of each quarter, into the insular Treasury one per cent of the gross earnings of its aforesaid electric business, which shall be distributed in accordance with the provisions of Act Numbered Two thousand and ninety-six, and shall bind itself, further, to install all the poles and wires for the main line of the street-lighting system, excepting the wires, iron arches and other appurtenances and the globes to be placed in the municipal buildings, which shall be furnished by the municipality concerned.

SEC. 16. 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 Bohol, 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: Provided, however, That if such deposit is in cash, it may be deposited 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 case of the deposit being made in negotiable bonds or other securities, as provided in this section, the interest of the deposit or of the bonds or securities, 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 eighteen months from the date of the acceptance of this franchise, or shall fail to provide the necessary equipment and be ready to operate within thirty-six 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 Insular Government, 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 thirty-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. 17. The province of Bohol and its municipalities 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. 18. The grantee shall be prohibited from issuing shares of stock, stock certificates, bonds or other evidence of indebtedness without the consent of the shareholders representing two thirds of the subscribed and paid-up capital stock. The consent of the Province of Bohol, as holder of one half plus one of the shares of stock of the corporation, shall be given in the form prescribed in section four of this Act. Upon such consent having been obtained as aforesaid, the issuance of shares of stock, stock certificates, bonds or other evidence of indebtedness shall not be valid until finally approved by the Public Utility Commission, in accordance with Act Numbered Twenty-three hundred and seven.

Nor shall the grantee issue shares of stock, stock certificates, bonds or other evidence of indebtedness in lieu of dividends.

SEC. 19. The grantee shall keep a separate quarterly account of the gross receipts of its business in each of the municipalities of the Province of Bohol and shall furnish to the Insular Auditor and Treasurer a copy of said account during the days immediately following the end of each quarter. The audit and approval by the Insular Auditor of the accounts so filed shall be conclusive and final evidence of the amount of said gross receipts.

SEC. 20. The grantee shall pay on its 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. 21. The grantee may, with the recommendation of the Secretary of the Interior and the approval of the Philippine Legislature first had, 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 by which the purchaser, lessee, donee, or assignee shall bind himself 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. 22. The Secretary of Commerce and Communications, after hearing the grantee, shall have the power 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 Secretary of Commerce and Communications, the right to apply to the courts shall be considered waived.

SEC. 23. 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 franchise 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 which 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.

SEC. 24. This Act shall take effect on its approval.

Approved, March 6, 1919.

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