

AN ACT GRANTING TO ALFREDO PARDO DE TAVERA A FRANCHISE TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRIC LIGHT, HEAT, AND POWER SYSTEM IN THE MUNICIPALITIES OF SAN FERNANDO AND BACO...

Act No. 2654., February 24, 1916

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

SECTION 1. Subject to the conditions established in this Act and the provisions of Act Numbered Twenty-three hundred and seven and amendments thereof, applicable hereto, there is hereby granted to Alfredo Pardo de Tavera, his successors and assigns, for a period of fifty years from the passage of this Act, the right, privilege, and authority, to construct, maintain, and operate in all streets, public thoroughfares, and public places in the municipalities of ban Fernando and Bacolor, Province of Pampanga, poles, wires, and all necessary apparatus and appurtenances for the transmission and distribution of current 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 municipalities, 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 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 or authorities authorized by law, and shall in no case exceed forty centavos per kilowatt.

SEC. 2. The concession of the right, privilege, and authority mentioned in the preceding section shall not take effect unless the grantee shall accept in writing and make part of this concession the following condition, to wit:

"That the grantee state in writing that he is informed of c 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 bind himself 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 shall further bind himself to exact a similar engagement from his administrators, agents, successors, and assigns."

SEC. 3. 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 in accordance with a plan approved by the provincial or municipal authorities concerned, and said grantee shall supply electric power, heat, and light to any applicant for the same (within fifteen days after the date of the 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 association 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, upon authorization by the municipal council concerned: Provided however, That if the point at which the electric light, heat or power to be furnished is at a distance in excess of one hundred and fifty meters from the lines or wires operated by said concessionaire, then the said concessionaire shall not be required to furnish such service except upon the written order of the Board of Public Utility Commissioners or its successors.

SEC. 4. All apparatus and appurtenances used by the grantee shall be modern and first-class in every respect and the 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 the wires shall be stretched so as not to interfere with the free use of said streets and public thoroughfares: Provided, That the grantee shall, whenever the Philippine Legislature 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 Province of Pampanga, or the municipalities of San Fernando and Bacolor.

SEC. 5. Whenever it shall be necessary in the erection of said poles to take up any portion of the sidewalk or dig up the ground near the sidewalks or the corners of the streets or public 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 a condition as they were before the work was done.

SEC. 6. Whenever any person has obtained permission to use any of the streets or public thoroughfares of either of the municipalities of San Fernando and Bacolor 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 by resolution of the municipal authorities concerned, and upon at least forty-eight hours' notice of the necessity of carrying out such work, 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, it being the duty of the person or entity at whose instance the removal of the building or structure has been made to pay one-half of the actual cost of replacing the poles and of putting or removing the wires or other overhead or subterranean conduits. Such notice shall be a duly adopted resolution of the municipal council, 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, with the proper approval of the municipal council first had, shall order such wires to be raised or removed at the expense of said grantee, for the purpose aforesaid: Provided, however, That the grantee "may appeal from any such resolution to the Provincial Board of Pampanga, whose decision in this matter shall be final.

SEC. 7. The grantee shall be liable to the municipalities of San Fernando and Bacolor 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. 8. Said grantee shall file his acceptance of this franchise with the Secretary of Commerce and Police within ninety days from the date of this Act, shall commence work within at least nine 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, civil commotion, or other inevitable cause, and shall complete the system and have the same in operation in each of the municipalities of San Fernando and Bacolor within two years from the date of such acceptance, and shall thereafter maintain a first-class electric light, heat and power service in and throughout each of the municipalities mentioned: Provided, That in consideration of the franchise hereby granted the grantee shall pay quarterly into the provincial treasury of the Province of Pampanga one-half of one per cent of the gross

earnings of the enterprise, and shall pay quarterly into the municipal treasury of each municipality in which the grantee operates under this franchise one-half of one per cent of the gross earnings thereunder from said municipality.

SEC. 9. At the time of filing the acceptance mentioned in the last preceding section, the grantee shall deposit in the Insular Treasury one thousand five hundred pesos Philippine currency as an earnest of the good faith of his application, and within one year thereafter he shall deposit in the Insular Treasury the additional sum of thirteen thousand five hundred pesos Philippine currency as a guaranty of the faithful performance of the conditions of this franchise, and in case said deposit of thirteen thousand five hundred pesos Philippine currency is not made within one year after the date of filing said acceptance, the sum of one thousand five hundred pesos already deposited shall be forfeited to the municipalities of San Fernando and Bacolor in equal shares. In case, after the deposit of said sum of thirteen thousand five hundred pesos, the work to be done under this franchise is begun within the time specified, but is not completed within the time provided, both said deposits may be forfeited to the municipalities of San Fernando and Bacolor, at the option of the Governor-General and this franchise shall become null and void. In case of the fulfillment of the conditions prescribed by this section, both said deposits of one thousand five hundred and thirteen thousand five hundred pesos shall be returned by the Insular Treasurer to the grantee, upon proper certificate of the district engineer of Pampanga 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 or quarterly installments, in the discretion of the municipal council concerned, in the proportion which the work done bears to the work to be done: Provided, further, That the Insular Treasurer may accept duly executed and satisfactory fidelity bonds of a fidelity company in lieu of the cash deposits by this section required.

SEC. 10. The municipalities of San Fernando and Bacolor, and the Province of Pampanga 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. 11. This franchise or concession is granted subject to amendment, alteration, or repeal by the Congress of the United States or by the Legislature of the Philippine Islands and subject to the provisions of Act Numbered Twenty-three hundred and seven, as amended by Act Numbered Twenty-three hundred and sixty-two of the Philippine Legislature. No stock or bonds shall be issued by the grantee, his successors or assigns, hereunder, except in exchange for actual cash, or for property at a fair valuation equal to the; pax value of the stock or bonds so issued, and said grantee successors or assigns, shall not declare any stock or bond dividend. No private property shall be taken for any purpose under this franchise without just compensation paid or tendered therefor, and any authority to take and occupy land shall not authorize the taking, use or occupation of any land except such as is required for the actual necessary purposes for which this franchise is granted. All lands or rights of use and occupation of lands granted to the grantee, his successors or assigns, shall, upon the termination of this franchise or upon its revocation or repeal, revert to the Insular or the provincial or municipal government to which such lands or the right to use and occupy them belonged at the time the grant thereof or the right to use or occupy the same was conceded to the grantee, his successors or assigns, and all property of the grantee company used in connection with this franchise shall become the property of the Insular Government.

The foregoing and all other terms and provisions of section seventy-four of the Act of Congress approved July first, nineteen hundred and two, which are applicable to grantees of franchise or concessions, or to their successors or assigns, are incorporated into and made a part hereof, with the same effect as if they were set forth

herein at length.

SEC. 12. The books and accounts of the grantee shall at all times be subject to inspection by the provincial treasurer and the Insular Auditor or their 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, who shall keep the same on file.

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 may, with the prior approval of the Board of Public Utility Commissioners, 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 purpose of the sale, lease, donation, granting, or transfer it shall be necessary to file 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 the grantee by the franchise and accepting the franchise subject to all its existing terms and conditions.

SEC. 15. The municipal councils of San Fernando and Bacolor as far as this franchise affects the municipality concerned 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, civil commotion, 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 concerned and approved by the Governor-General, the right to apply to the courts shall be considered waived.

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 this 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 operating income of the grantee, proper allowance being made for depreciation, in part upon the cost of reproduction new of said property less depreciation, and in part upon the original cost of said property less depreciation, said valuation to be determined after hearing evidence by the Board of Public Utility Commissioners or its successors, sitting as a board of arbitrators, whose decision by a majority of the members thereof shall be final.

SEC. 17. Wherever in this franchise the term "grantee" is used it shall be held and understood to mean and represent Alfredo Pardo de Tavera, his representatives, successors, and assigns.

SEC. 18. This Act shall take effect on its passage.

Enacted, February 24, 1916.

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