

6/20/94 for

REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC

SANGGUNIANG PANLUNGSOD  
DATE OUT  
DATE: 6-20-94  
BY: [Signature]  
LUNGSOD NG ORMOC

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SIXTH  
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE  
PLACIDO ENECIO SESSION HALL, SANGGUNIANG PANLUNGSOD  
BUILDING ON JUNE 16, 1994

SANGGUNIANG PANLUNGSOD  
RECEIVED  
DATE: 6-21-94  
BY: [Signature]  
LUNGSOD NG ORMOC

|                                  |                                          |
|----------------------------------|------------------------------------------|
| Hon. Benjamin F. Tugonon,        | Vice-Mayor & Presiding Officer           |
| Hon. Sotero M. Pepito,           | Majority Floor Leader, Kagawad           |
| Hon. Jose B. Conejos,            | Assistant Majority Floor Leader, Kagawad |
| Hon. Celso P. Adolfo,            | Kagawad                                  |
| Hon. Sixto T. Pongos,            | Kagawad                                  |
| Hon. Benjamin B. Lladoc,         | Kagawad                                  |
| Hon. Mariano Y. Corro,           | Kagawad                                  |
| Hon. Nestor C. Penserga,         | Kagawad                                  |
| Hon. Claudio P. Larrazabal,      | Kagawad                                  |
| Hon. Jose C. Alfaro, Jr.,        | Kagawad                                  |
| Hon. Alfredo F. Capahi,          | Kagawad                                  |
| Hon. Fernando P. Parrilla,       | ABC President, Ex-Officio, Kagawad       |
| ABSENT:                          |                                          |
| Hon. Angelyn R. Paca, (On Leave) | SK Fed. Pres., Ex-Officio, Kagawad       |

RESOLUTION NO. 106

WHEREAS, EASTERN VISAYAS TELEPHONE COMPANY, INC. (EVTELCO) filed an application with this august Body that it be granted a franchise to install, operate and maintain telecommunications system with local telephone service and long distance facilities, both domestic and overseas in Ormoc City;

WHEREAS, under Republic Act 7160, otherwise known as the Local Government Code of 1991, particularly Section 458, paragraph (a) subparagraph (3) (vii) thereof, empowers Sangguniang Panlungsod to enact ordinances granting franchise to any person, partnership, corporation or cooperative to do business within the city;

NOW, THEREFORE, FOREGOING PREMISES CONSIDERED, on motion of Kagawad Jose B. Conejos, Vice-Chairman, Committee on Transportation & Communication, duly seconded by Kagawad Mariano Y. Corro; be it

RESOLVED, to adopt:

ORDINANCE NO. 44

AN ORDINANCE GRANTING TO EASTERN VISAYAS TELEPHONE COMPANY, INC. (EVTELCO) A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEM WITH LOCAL TELEPHONE SERVICE AND LONG DISTANCE FACILITIES, BOTH DOMESTIC AND OVERSEAS IN ORMOC CITY.

BE IT ORDAINED by the Sixth Sangguniang Panlungsod ng Ormoc, in regular session assembled, That:

[Handwritten signature]

SECTION 1. Subject to the provisions of the Constitution and applicable laws, rules and regulations on public telecommunications, there is hereby granted to Eastern Visayas Telephone Company, Inc. (EVTELCO) a franchise to install, operate and maintain telecommunications system with local telephone service and long distance facilities, both domestic and overseas in Ormoc City.

SECTION 2. Eastern Visayas Telephone Company, Inc. hereinafter referred to as the GRANTEE shall secure from the National Telecommunications Commission, hereinafter referred to as the Commission, a certificate of public convenience or appropriate permits and licenses to install, operate and maintain a telephone system/service for and in Ormoc City, and to charge rates therefor. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operations, maintenance, or service level of the telecommunications systems.

SECTION 3. The grantee shall provide telephone service in Ormoc City without discrimination to any applicant thereof, in the order of the date of their applications.

The grantee shall operate and maintain all its stations, lines, cables, systems and equipment for the transmission and reception of messages, signals and pulses in a satisfactory manner at all times, and modify, improve or change such stations, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

SECTION 4. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation, or entity, nor merge with other corporation or entity without the prior approval of the Sangguniang Panlungsod ng Ormoc. Any person or entity to which this franchise is validly sold, transferred or assigned shall be subject to all the same conditions, terms, restrictions and limitations of this Ordinance.

SECTION 5. The poles to be erected by the grantee shall be of such height as to maintain the wires stretched on the same at a distance of at least 15 feet above the ground, and shall be of such appearance as not to disfigure the streets, and shall be placed in conformity with a plan to be approved by this Sangguniang Panlungsod, and in a manner so as not to interfere with the passage of vehicles or pedestrians.

SECTION 6. The grantee or its successors shall place the transmission wires in underground pipes or conduits, whenever practical, at its own expense and without any cost or prejudice to the City of Ormoc whenever the Commission after hearing the proper City authorities concerned considers that public interest so demands.

SECTION 7. The grantee shall not erect telephone poles on sidewalk or portion thereof or dig up the ground of the public streets or thorough-fares without first obtaining a permit from the City Mayor of Ormoc upon recommendation of the City Engineer of Ormoc.

SECTION 8. The City Government of Ormoc shall have the privilege of using without compensation the poles of the grantee to attach and to install, maintain and operate wires of its police and fire alarm system: Provided, that the wire shall be placed and strung in such manner as to cause no interference with or damage to the wires or the telephone service of the grantee.

SECTION 9. In the event of war, rebellion, insurrection or similar national crises and the government shall find it necessary to operate and maintain for itself any or all of the telecommunication apparatus and system herein authorized, the grantee shall temporarily turnover such facilities or apparatus to the government in exchange for payment of just and reasonable compensation for the use thereof.

SECTION 10. The grantee shall be liable to pay the same taxes on their real estate, buildings and personal property exclusive of this franchise, as other persons or telecommunication entities are now or hereafter may be required by law to pay. In addition thereto, the grantee shall pay to the City Government of Ormoc the franchise tax as provided for in the local tax ordinance, and such other fees and charges that may be imposed by the City Government of Ormoc.

SECTION 11. The franchise shall be for a term of 25 years from the date of the effectivity of this Ordinance unless sooner revoked or cancelled. In the event that the grantee fails to operate continuously for two (2) years, this franchise shall be deemed ipso facto revoked.

SECTION 12. Within sixty (60) days after the effectivity of this Ordinance, the grantee shall file with the City Secretary its written acceptance of this franchise and of all the terms and conditions hereof. In default of such acceptance within the said period, this franchise shall become null and void.

SECTION 13. Within six (6) months after the effectivity of this Ordinance, the grantee shall file an application with the Commission for a certificate of public convenience and necessity authorizing it to construct, operate and maintain a telecommunications system and to offer the corresponding telecommunication service within the City of Ormoc.

Failure to file such an application for any reason other than force majeure or acts of God shall render this franchise void.

SECTION 14. The grantee shall hold the City Government of Ormoc harmless from all claims, accounts, demands or actions arising out of the accidents or injuries, whether to property or to persons, caused by the installation and operation of the telecommunication systems of the grantee.

SECTION 15. The books of the grantee shall always be open to inspection by the City Treasurer or by a deputy designated by him for that purpose, it shall be the duty of the grantee to submit to the City Treasurer quarterly reports in duplicate showing the gross receipts and the net receipts for the quarter past and the general conditions of the business, one copy of which shall be forwarded by the City Treasurer to the Auditor General, Commission on Audit who shall keep the same on file.

SECTION 16. If any section or provision of this Ordinance is declared unconstitutional or invalid, the other sections or provisions not affected thereby shall continue to be in force and effect.

SECTION 17. This Ordinance shall take effect upon its approval.

ENACTED, June 16, 1994.

RESOLVED, FURTHER, to furnish copies of this resolution-ordinance, one each, to His Honor, the City Mayor; the City Administrator, the City Legal Officer, the Management-EVTELCO, and others concerned, -all in Ormoc City;

CARRIED by MAJORITY VOTES, with ten (10) affirmative votes, and one (1) abstention registered by Kagawad Jose C. Alfaro, Jr..

I HEREBY CERTIFY to the correctness of the foregoing resolution-ordinance.

BENJAMIN TUGONON  
Vice-Mayor & Presiding Officer

ATTESTED:

OSCAR LASAM  
City Secretary

APPROVED:

EUFROCINO M. CODILLA, SR.  
City Mayor

6/21/94  
(Date)

/magch'94