

REPUBLIC OF THE PHILIPPINES
MUNICIPAL BOARD
ORMOC CITY
Office of the Secretary

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION OF
THE MUNICIPAL BOARD OF ORMOC CITY, PHILIPPINES, HELD
IN ITS SESSION HALL ON JANUARY 7, 1956

PRESENT:

His Honor, Potenciano Larrazabal.. Acting City Mayor
Presiding Officer
Hon. Rafael M. Mejia Acting Vice Mayor
" Inaki Larrazabal City Councilor
" Cesar Samson " "
" Emilio C. Penserga " "
" Esteban C. Conejos " "
" Guillermo T. Parrilla " "
" Jorge P. Tan, Jr. " "
" Alvaro I. Gutierrez " "
" Teotimo P. Ocubillo " "

ABSENT:

N o n e

RESOLUTION NO. 13

A RESOLUTION GRANTING JOSE A. LEUTERIO, A
FRANCHISE FOR TELEPHONE SERVICE IN ACCORD-
ANCE WITH ACT NO. 667, AS AMENDED BY ACT
NO. 1022, SUBJECT TO THE APPROVAL OF THE
PUBLIC SERVICE COMMISSION AND THE PRESI-
DENT OF THE PHILIPPINES.

WHEREAS, Jose A. Leuterio, with business in the
City of Ormoc, Philippines, has presented before the
Municipal Board an application requesting the grant-
ing of the right, privilege and authority for a per-
iod of THIRTY FIVE (35) YEARS beginning on and after
the date of approval of this Resolution by the Pres-
ident of the Philippines, to construct, maintain, and
operate in all the streets, thoroughfares and public
places in the City of Ormoc poles, wires and other
apparatus and accessories necessary for the trans-
mission and distribution of telephone messages and
for whatever other use to which telephone service may
be applied, and to supply telephone service within
the limits of the said City, for public or private
uses for whatever other use to which telephone ser-
vice may be applied; and

WHEREAS, the applicant, Jose A. Leuterio, is
not barred by the Constitution of the Philippines
from being granted a franchise, a certificate or any
other form of authorization, for the operation of a
public utility;

NOW, THEREFORE, the Board, on motion of Councilor
Esteban C. Conejos, seconded by Councilor Guillermo
T. Parrilla;

BE IT RESOLVED, as is hereby resolved, to grant
to the applicant, Jose A. Leuterio, the right, pri-
vilege and authority requested in his application
for a period of THIRTY-FIVE (35) YEARS and for the
purpose stated therein, by virtue of the provisions
of Act. No. 667, as amended by Act No. 1022, and
subject to Commonwealth Act No. 146, as amended by
Commonwealth Act No. 454, subject to the following
conditions:

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1. The poles erected by the grantee shall be of such height as to maintain the wires stretched on the same at a distance of at least fifteen (15) feet above the level of 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 Municipal Board, and in a manner so as not to interfere with the passage of vehicles or pedestrians.

2. The grantee, Jose A. Leuterio, shall supply telephone service to all applicants for the same in consecutive order corresponding to the date of the respective application, except on other basis of priority as approved by the Public Service Commission 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, and should the demand for telephone service at any time increase beyond the capacity of said plant of said grantee to supply the same, the capacity of said plant shall be increased by said grantee to meet such demand, in accord with the decision of the Public Service Commission; PROVIDED, however, That in case the point at which the telephone service is to be supplied, is more than thirty (30) meters from the lines or wires operated by said grantee, the latter shall not be obliged to furnish said service, except on special contract basis.

3. The telephone service plant which is to be constructed, maintained and operated by said grantee under this franchise, whether in this City or elsewhere, shall be of sufficient capacity to supply the needs of this City of Ormoc with allowance for its future economic development.

All the apparatus and accessories installed by the grantee or which may be installed in the future by him or by his successors or assigns, shall be modern and first class in all technical respects, and the transmission wires used 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 the streets and thoroughfares nor cause any injury to the public, danger of fire, or damage and inconvenience to the owners of property; PROVIDED, MOREOVER, That in the maintenance and operation of its plant and system for the transmission and distribution of telephone messages, the grantee shall always be subject to such regulations as may be promulgated by the Public Service Commission and also to the regulations prescribed by the National Electrical Safety Code (American).

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(RESOLUTION NO. 13, s. 1956)

4. The grantee or his successors or assigns shall place the transmission wires in underground pipes or conduits at its own expense and without any cost or prejudice to the City of Ormoc, whenever the Public Service Commission, after hearing the proper municipal authorities concerned, considers that public interest so demand.

5. Whenever it shall be necessary in the erection of poles to take up any portion of the sidewalks or dig up the ground of the public streets or thoroughfares, then the 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 by the Provincial Board, or by reason, of the extension of streets or plazas determined by the Municipal Board of the City of Ormoc to change the location of said poles, such change shall be made by the grantee, his successors or assigns, at their expense, without delay, and said pole shall be placed where directed by said Municipal Board.

6. Whenever any person or entity has obtained permission to use any of the streets or public thoroughfares of the city for the purpose of removing any building, except 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 telephone wires which may obstruct the removal of said building or hinder the prosecution of said work, the said grantee, upon written notice of the Municipal Board, served upon said grantee, at least forty-eight hours in advance, shall raise or remove any of said poles or wires which may hinder the prosecution of such work or obstruct the removal of said building, 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 or other overhead or underground conductors. The notice shall be served in the form of a duly adopted resolution of the Municipal Board, and in case of the refusal or failure of the grantee to comply with such notice, the public Service Commission after hearing the municipal authorities, shall

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order such poles or wires to be raised or removed at the expense of said grantee for the purpose aforesaid. In such cases, the cost of litigation incurred by the municipal authorities before the Public Service Commission shall be at the expense of the grantee.

7. The grantee shall be liable to the City of Ormoc for any injury arising from any claims caused by accidents to persons 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.

8. The grantee shall file with the Secretary of Public Works and Communications its written acceptance of this franchise, within one hundred twenty (120) days after the date of final approval of the same by the President of the Philippines.

9. This franchise shall not take effect unless the grantee, within a period to be fixed by the Public Service Commission in its decision approving this franchise, deposits in the National Treasury a sum equivalent to TEN THOUSAND PESOS (P10,000), Philippine Currency, or in securities approved by the President of the Philippines, as security for the completion of the work to be done by the grantee within the time specified in this franchise. If after depositing the Ten Thousand Pesos, the work is not begun or completed in accord with the terms of this franchise within the time specified, this deposit, upon resolution of this Municipal Board of Ormoc approved by the Public Service Commission and the President of the Philippines, shall be forfeited in favor of the City of Ormoc as damage for the breach of implied contract involved in the acceptance of this franchise, which franchise shall thereupon become null and void; PROVIDED, HOWEVER, That in case the grantee begins the work within the time specified, the Treasurer of the Philippines upon recommendation of the Public Service Commission (or its lawful successors) shall return to the grantee the funds deposited, in monthly or quarterly installments as the work progresses, in the proportion which the work completed bears to the work still to be done.

10. The grantee, within six (6) months after the date of filling its acceptance of this franchise, shall commence the work contemplated under this franchise under the supervision and subject to the approval of the electrical engineer of the public Service Commission, in accordance with the plans, specifications and estimates previously approved by the Pub-

lic Service Commission, and shall complete the installation and start operation within eighteen (18) months after the date of said acceptance, unless delayed by Act of God, force majeure, usurped or military power, martial law, riot, rebellion, earthquake, flood or other causes beyond the grantee's control, and thereafter shall maintain first class telephone service; PROVIDED, That the time during which the grantee may be prevented by any of the causes above-mentioned from carrying out the terms and conditions of the franchise shall be added to the time granted by the franchise for the fulfillment of its conditions; PROVIDED FURTHER, That failure on the part of the grantee to comply with any of the terms and conditions of this franchise with reference to its acceptance in writing, and the commencement and completion of the corresponding work within the period above specified, without the consent of the Municipal Board of the City of Ormoc approved by the Public Service Commission and the President of the Philippines, in either case shall be sufficient cause for declaring the forfeiture of this franchise. The said grantee, in consideration of the franchise hereby granted, shall pay quarterly into the City Treasury of Ormoc five (5) percentum of the gross earnings obtained thru this privilege as required by Section 7 of Republic Act No. 39 and Sec. 1 of Republic Act No. 418.

11. In addition to the cases of forfeiture or loss of this franchise outlined in the preceding condition No. 10, the Public Service Commission its lawful successor, upon notice to, and after hearing the parties interested, shall have the power to declare the forfeiture of this franchise and all rights thereunder, by written order, for failure on the part of the grantee to comply with any of the terms and conditions hereof, unless such failure has been directly and primarily caused by Act of God, the public enemy or force majeure, Against such declaration of forfeiture of this franchise by the Public Service Commission or its lawful successor, the grantee may have recourse to the remedies provided by Commonwealth Act 146.

12. The City of Ormoc shall have the privilege, without compensation, of using the poles of the grantee for the purpose of installing, maintaining and operating a fire and police alarm system; but the

wires of such fire and police alarm system shall be placed and stretched in such manner as to cause no interference or damage to the wires of the telephone service of the grantee.

13. This franchise is granted with the understanding and upon condition that it shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the Public interest so requires as provided in Section 8 of Article XIII of the Constitution of the Philippines, and that it shall be subject moreover to the provisions of Commonwealth Act No. 454. All lands or rights of use or occupation of lands secured by virtue of this franchise shall revert upon its termination, revocation or nullification to the National, Provincial or Municipal Governments which were the owners thereof on the date when this franchise was granted.

14. Upon the termination of the thirty-five (35) years' term of this franchise, all the rights and privileges therein granted shall cease and be reverted to the City of Ormoc and on the date of such reversion the said city of Ormoc may purchase, and the grantee shall in that case sell, all the equipment, 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 with corresponding reduction for depreciation, in part upon the actual replacement value of the property less depreciation, and in part upon the original cost of the same property less depreciation, the valuation to be fixed by the Public Service Commission or its lawful successors, whose decision may be reviewed by appeal as provided under Commonwealth Act No. 146.

15. The books of the grantee shall always be open to inspection by the Treasurer or by deputy designated by him for the purpose, and 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, the general conditions of the business, one copy of which shall be forwarded by the City Treasurer to the Auditor General, who shall keep the same on file.

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

Amended

17. The grantee may, with the prior approval of the Public Service Commission, sell, lease, grant, convey, or assign this franchise and all property and rights acquired thereunder to any person or corporation not barred by the Constitution of the Philippines from being granted a franchise, certificate or any other form of authorization for the operation of a public utility; PROVIDED, That for the purposes of the sale, lease, donation, grant or transfer, it shall be necessary to file with the Office of the Secretary of Public Works and Communications an agreement in writing by which the purchaser, lessee, donee, or assigns shall bind himself to comply with all the terms and conditions. The transfer should not pass to aliens prohibited by our laws to acquire franchise and all property and rights under this franchise.

18. The grantee agrees that in the event the Government should desire to maintain and operate for itself such service over said territory, the grantee shall surrender its franchise and certificate of public convenience and necessity in the aforesaid territory there in at cost, less depreciation to be fixed by the Public Service Commission.

19. The rate for telephone service to be charged by the grantee shall be subject to regulations by the Public Service Commission in accord with the laws and rules applicable thereto.


20. Whenever in this franchise the term "grantee" is used, it shall be understood to refer to Jose A. Leuterio or his representatives, successors and assigns.

RESOLVED FURTHER, That this franchise be submitted officially by the Secretary of the Municipal Board of Ormoc City, together with a copy of the application of the said grantee, to the President of the Philippines, through the Public Service Commission for approval in accord with law;

RESOLVED FINALLY, to furnish copies of this Resolution each to His Excellency, the President of the Philippines, Malacañang, Manila, thru the Honorable Executive Secretary; the Honorable Secretary of Public Works and Communications, Manila; the Honorable Public Service Commission, Manila; the City Mayor, the City Treasurer, the City Auditor and the City Engineer, all of Ormoc City.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the above-quoted Resolution.


RAMON BANTASAN
Secretary

APPROVED:

Potenciano Larrazabal
POTENCIANO LARRAZABAL
Acting City Mayor
Presiding Officer

ATTESTED:

Artemio T. Derecho
ARTEMIO T. DERECHO
Secretary to the City Mayor

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