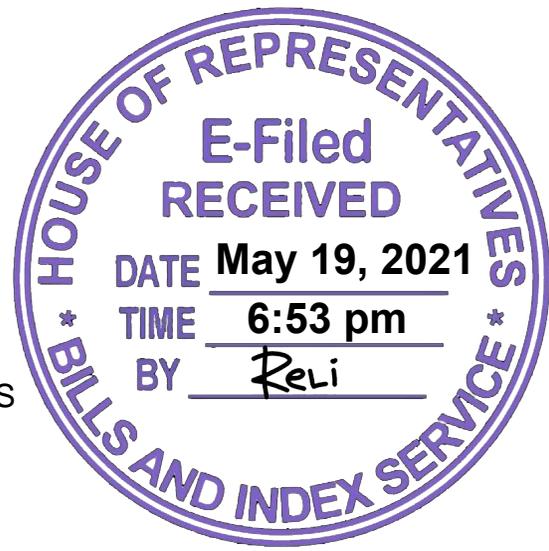




Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Quezon City, Metro Manila

HB. NO. 9378

EXPLANATORY NOTE



One year into the Covid-19 pandemic, we are now more than ever aware of how critical and important telecommunications services are for our country. Most of the business and commercial, educational, medical, banking and even religious activities have gone online, and the need for better and faster telecommunications services is a priority for our country. And bringing in more new players in the telecommunications landscape is a step in the right direction.

Our country today is adjusting to new ways of doing business, new ways of conducting classes in schools, new ways to deliver important medical services, new ways to conduct banking processes and even new ways of doing spiritual events. None of these can be done without a stable telecommunications landscape that will serve ideally all parts of our country, most importantly, the unserved and unserved areas.

While the incumbent players have committed their fair share to achieve this, more new telecommunications players coming into the telecommunications ecosystem assure us that we can achieve a better telecommunications landscape sooner than later.

This is where NU Communications Corporation intends to play an active and critical role, at this important juncture of our nation building. It offers to quickly make itself an active player in the telecommunications landscape, in order to benefit our nation building, as a consequence of which progress and national development can be achieved.

This bill is earnestly recommended for immediate approval.

HON. ALFREDO GARBIN, JR



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9378

Introduced by Rep. ALFREDO GARBIN, JR.

AN ACT

GRANTING NU COMMUNICATIONS CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES”

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions of the Constitution and applicable laws, rules and regulations, the franchise granted to NU COMMUNICATIONS CORPORATION, hereunder referred as the grantee, its successor or assignee, a franchise to construct, install, establish, operate, and maintain for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wired and/or wireless telecommunications systems including mobile, fixed line, paging, trunked radio, fiber optics, multi-channel multipoint distribution system (MMDS), local multi-point distribution system (LMDS), satellite transmit and receive systems, switches, and value added services such as transmission of voice, data, images, facsimile, control signs, audio and video, and all other telecommunications system technologies as are present available or will be made available through technological advances or innovations in the future; or construct, acquire, lease, and operate or manage transmitting and receiving stations, landing stations of submarine cables, lines, systems, or other cables as it may consider necessary and convenient to efficiently carry out the purpose of this franchise.

SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies of existing stations or other stations which may be established by law, without in any way diminishing its own right to use its assigned wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee’s services or the availability thereof.

SEC. 3. *Authority of the National Telecommunications Commission.* – The grantee shall secure from the National Telecommunications Commission (NTC) a Certificate of Public Convenience and Necessity or the appropriate permits and licenses for the

1 construction, installation and operation of its telecommunications systems or facilities. In
2 issuing the certificate, the NTC shall have the power to regulate and impose such conditions
3 relative to the construction, operation, maintenance, or service level of the
4 telecommunications systems or facilities. Such certificate shall state the areas covered and
5 the date the grantee shall commence the service. The grantee shall not use any frequency in
6 the radio spectrum without authorization from the NTC. The NTC, however, shall not
7 unreasonably withhold or delay the grant of such authority, permit or license.

8
9 In case of any violation of the provisions of this franchise, the NTC shall have the
10 authority to revoke or suspend, after due process, the permits or licenses it issued pursuant
11 to the franchise. The NTC may recommend to Congress the revocation of the franchise for
12 any violation of the provisions of this franchise.

13
14 SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and
15 maintaining poles or other supports for said wires or other conductors for the purpose of
16 laying and maintaining underground wires, cables, or other conductors, it shall be lawful for
17 the grantee, its successor or assignee, with the prior approval of the Department of Public
18 Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be
19 appropriate, to make excavations or lay conduits in any of the public places, roads,
20 highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, or
21 municipalities: *Provided, however,* That a public place, road, highway, street, lane, alley,
22 avenue, sidewalk, or bridge disturbed, altered or changed by reason of erection of poles or
23 other supports or the underground laying of wires, other conductors or conduits, shall be
24 repaired and replaced in workmanlike manner by said grantee, its successor or assignee, in
25 accordance with the standards set by DPWH or the LGU concerned. Should the grantee, its
26 successor or assignee, after the ten (10)-day notice from the said authority, fail, refuse, or
27 neglect to repair or replace any part of public place, road, highway, street, lane, alley,
28 avenue, sidewalk, or bridge altered, changed or disturbed by the said grantee, its
29 successors or assignees, then the DPWH or the LGU concerned shall have the right to have
30 the same repaired and placed in good order and condition, and charge the grantee, its
31 successor or assignee at double the amount of the costs and expenses for such repair or
32 replacement.

33
34 SEC. 5. *Responsibility to the Public.* - The grantee shall conform to the ethics of
35 honest enterprise and not use its stations or facilities for obscene or indecent transmission,
36 or for dissemination of deliberately false information, or willful misrepresentation, or assist in
37 subversive or treasonable acts.

38
39 The grantee shall operate and maintain all its stations, lines, cables, systems, and
40 equipment for the transmission and reception of messages, signals, and pulses in a
41 satisfactory manner at all times, and as far as economical and practicable, modify, improve,
42 or change such stations, lines, cables, systems, and equipment to keep abreast with the
43 advances in science and technology.

1 The grantee shall improve and extend its services in areas not yet served, and in
2 hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk
3 Reduction and Management Council, or its legal successor, in coordination with the NTC.

4
5 The grantee shall also improve and upgrade its equipment, facilities and services, in
6 order to ensure effective compliance with the objectives of Republic Act No. 10639 or the
7 “Free Mobile Disaster Alerts Act”.

8
9 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications
10 services of the grantee, except the rates and charges on those that may hereafter be
11 declared or considered as nonregulated services, whether flat rates or measured rates or
12 variation thereof, shall be subject to the approval of the NTC or its legal successor. The rates
13 to be charged by the grantee shall be unbundled, separable and distinct among the services
14 offered and shall be determined in such a manner that regulated services do not subsidize
15 the unregulated ones.

16
17 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource that is part of
18 the national patrimony and the use thereof is a privilege conferred upon the grantee by the
19 State and may be withdrawn any time after due process.

20
21 A special right is hereby reserved to the President of the Philippines, in times of war,
22 rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order: to
23 temporarily take over and operate the stations, transmitters, facilities, or equipment of the
24 grantee; to temporarily suspend the operation of any station, transmitter, facility, or
25 equipment in the interest of public safety, security, and public welfare; or to authorize the
26 temporary use and operation thereof by any agency of the government, upon due
27 compensation to the grantee for the use of said stations, transmitters, facilities, or equipment
28 during the period when these shall be so operated.

29
30 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period of twenty-five
31 (25) years from the effectivity of this Act, unless sooner revoked or cancelled. This franchise
32 shall be deemed *ipso facto* revoked in the event the grantee fails to operate continuously for
33 two (2) years.

34
35 SEC. 9. *Right of Interconnection.* – The grantee is hereby authorized to connect or
36 demand connection of its telecommunications systems to other telecommunications systems
37 installed, operated, and maintained by any other duly authorized person or entity in the
38 Philippines for the purpose of providing extended and improved telecommunications
39 services to the public, under the terms and conditions mutually agreed upon by the parties
40 concerned. This right shall be subject to the review and modification of the NTC.

41
42 SEC. 10. *Mobile Number Portability.* – The grantee shall provide mobile number
43 portability (MNP) and its implementing mechanism, and shall interconnect, directly or
44 indirectly, with the infrastructure, facilities, systems, or equipment of other
45 telecommunications franchise grantees. It shall not install network features, functions, or

1 capabilities that will impede the implementation of a nationwide MNP system. The NTC shall
2 issue rules and regulations for this purpose, the effectivity of which shall commence upon
3 applicability with other telecommunications franchise grantees.

4
5 SEC. 11. *Warranty in Favor of the National and Local Governments.* - The grantee
6 shall hold the national, provincial, city, and municipal governments of the Philippines free
7 from all claims, liabilities, accounts, demands, or actions arising out of accidents causing
8 injury to persons or damage to properties, during the construction or operation of the
9 stations, transmitters, facilities, or equipment of the grantee.

10
11 SEC. 12. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* –
12 The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or
13 the rights and privileges acquired thereunder to any person, firm, company, partnership,
14 corporation, or other commercial or legal entity, nor merge with any other corporation or
15 entity, nor shall transfer the controlling interest of the grantee, simultaneously or
16 contemporaneously, to any person, firm, company, partnership or corporation organized for
17 the same purpose without the prior approval of the Congress of the Philippines. Congress
18 shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or
19 the rights and privileges acquired thereunder, or of the merger or transfer of the controlling
20 interest of the grantee, within sixty (60) days after the completion of the transaction. Failure
21 to report to Congress such change of ownership shall render the franchise *ipso facto*
22 revoked.

23
24 Any corporation to which this franchise may be sold, transferred, or assigned shall be
25 subject to all conditions, terms, restrictions, and limitations of this Act.

26
27 SEC. 13. *Dispersal of Ownership.* - In accordance with the constitutional provision to
28 encourage public participation in public utilities, the grantee shall offer to Filipino citizens at
29 least thirty percent (30%) of its common stocks, or a higher percentage that may hereafter
30 be provided by law, in any securities exchange in the Philippines within five (5) years from
31 the effectivity of this Act: *Provided*, That in cases where public offer of shares is not
32 applicable, other methods of encouraging public participation by citizens and corporations
33 operating public utilities must be implemented. Noncompliance therewith shall render the
34 franchise *ipso facto* revoked.

35
36 SEC. 14. *Commitment to Provide and Promote the Creation of Employment*
37 *Opportunities.* – The grantee shall create employment opportunities and accept on-the-job
38 trainees in the franchise operations: *Provided*, That priority shall be accorded to the
39 residents of the place where their principal office is located: *Provided, further*, That the
40 grantee shall ensure that at least sixty percent (60%) of its employees are regular
41 employees and in no case shall the percentage of contractual employees, job orders,
42 casuals, and independent contractors combined, exceed forty percent (40%) of its total
43 workforce: *Provided, finally*, That the grantee shall comply with the applicable labor
44 standards and allowance entitlement under existing labor laws, rules and regulations, and
45 similar issuances.

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The employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually. In addition, the grantee shall include in its annual report to Congress the number of its regularized employees and secure a compliance and clearance certificate from the Department of Labor and Employment and its relevant attached agencies.

SEC. 15. *Reportorial Requirement.* – The grantee shall submit an annual report on its compliance with the terms and conditions of the franchise and on its operations to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on or before April 30 of every year during the term of its franchise.

The annual report shall include an update on the roll-out, development, operation and/or expansion of business; audited financial statements; latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the status of its permits and operations; and an update on the dispersal of ownership undertaking, if applicable.

The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

SEC. 16. *Fine.* – Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of one million pesos (P1,000,000.00) per working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: *Provided*, That in the interim, the grantee shall be liable to pay the fine of five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC, and the same shall be remitted to the Bureau of the Treasury.

SEC. 17. *Equality Clause.* - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted, shall *ipso facto* become part of previously granted telecommunications franchises and shall be accorded immediately and unconditionally to the grantees of such franchises: *Provided, however*, That the foregoing shall neither apply to nor affect provisions of telecommunications franchises concerning territory covered by the franchise, the life span of the franchise, or the type of service authorized by the franchise.

SEC. 18. *Repealability and Nonexclusivity Clause.* – This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 19. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

1 SEC. 20. *Repealing Clause.* – All laws, decrees, orders, resolutions, instructions,
2 rules and regulations, and other issuances or parts thereof which are inconsistent with the
3 provisions of this Act are hereby repealed, amended, or modified accordingly.

4

5 SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
6 in the Official Gazette or in a newspaper of general circulation.

7

8 Approved