

[REPUBLIC ACT NO. 9857, December 20, 2009]

**AN ACT GRANTING THE SCHUTZENGELE TELECOM, INC. A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE
AND MAINTAIN TELECOMMUNICATIONS SYSTEMS THROUGHOUT
THE PHILIPPINES**

Be it enacted by the Senate and House of Representative 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, there is hereby granted to Schutzengel Telecom, Inc., hereunder referred to as the grantee, its successors or assigns, 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, wire and/or wireless telecommunications systems, multi-media systems, networks, stations, services including, but not limited to, fixed, mobile, cellular, paging systems, digital trunk radio systems, fiber optics, multi-channel multi-point distribution system (MMDS), local multi-point distribution system (LMDS), terrestrial, submarine and satellite transmit and receive systems, switches, gateway stations and their value-added or enhanced services such as, but not limited to, transmission and reception of impressions, pictures, music, voice, data, facsimile, control signs, audio and video, information services bureau and all other telecommunications systems, including information and communications technologies (ICT), as are at present available or will be made available through technological advances, evolution or innovations in the future; and/or to construct, install, acquire, lease and operate, maintain or manage terrestrial, submarine or satellite transmitting and receiving and/or landing stations, lines, microwave, optical fiber cables or systems, whether digital or analogue, for local and international services, as is, or are, convenient or essential 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 selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

SEC. 3. *Authority of the National Telecommunications Commission.* — The grantee shall secure from the National Telecommunications Commission (NTC), hereinafter referred to as the Commission, a certificate of public convenience and necessity or the appropriate permits and licenses for the construction, installation and operation of its telecommunications systems/facilities. In issuing the certificate, the

Commission shall have the power to impose such conditions relative to the construction, operation, maintenance or service level of the telecommunications system. The Commission shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and the date the grantee shall commence the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

SEC. 4. *Eminent Domain.* — The grantee may acquire such private property as is actually necessary for the realization of the purposes for which this franchise is granted: *Provided*, That in case the owner refuses to sell or allow the use thereof, the proper proceedings shall be instituted: *Provided, further*, That just compensation is paid.

SEC. 5. *Ingress and Egress.* — For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be lawful for the grantee, its successors or assigns, with the prior approval of the Department of Public Works and Highways (DPWH), to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of the said province, cities and/or municipalities: *Provided, however*, That a public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of erection of poles or other supports, or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in workmanlike manner by the said grantee, its successors or assigns, in accordance with the standards set by the DPWH. Should the grantee, its successors or assigns, after the ten (10)-day notice from the said authority, fail, refuse or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk or bridge altered, changed or disturbed by the said grantee, its successors or assigns, then the DPWH shall have the right to have the same repaired and placed in good order and condition at double expense to be charged against the grantee, its successors or assigns.

SEC. 6. *Responsibility to the Public.* — The grantee shall conform to the ethics of honest enterprise and not use its stations/facilities for obscene or indecent transmission or for dissemination of deliberately false information or willful misrepresentation, or assist in subversive or treasonable acts.

The grantee shall provide basic or enhanced telephone service in any municipality in the Philippines where it has an approved certificate of public convenience and necessity for the establishment, operation and maintenance of basic and/or enhanced local exchange service, without discrimination to any applicant therefore, in the order of the date of their applications, up to the limit of the capacity of its local telephone exchange, and should the demand for the telephone service at any time increase beyond the capacity thereof, the grantee shall increase the same to meet such demand: *Provided*, That in case the total demand to be satisfied by the expansion is less than the smallest viable local exchange available in the market as determined by the Commission, the grantee shall not be obliged to furnish such service unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunications apparatus necessary for such services and in such case, the Commission may extend the time within which the grantee shall

furnish such service.

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, as far as economical and practicable, modify, improve or change such stations, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

SEC. 7. *Rates for Services.* — The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as nonregulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the Commission or its legal successor. The rates to be charged by the grantee shall be unbundled, separable and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidize the unregulated ones.

SEC. 8. *Right of Government.* — A special right is hereby granted to the President of the Philippines in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, to temporarily take over and operate the stations, transmitters, facilities or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility or equipment in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee for the use of said stations, transmitters, facilities or equipment during the period when they shall be so operated.

The radio spectrum is a finite resource that is part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn anytime after due process.

SEC. 9. *Term of Franchise.* — This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to comply with any of the following conditions:

- a. Commence operation within three (3) years from the approval of its operating permit by the NTC;
- b. Operate continuously for two (2) years; and
- c. Commence operations within five (5) years from the effectivity of this Act.

SEC. 10. *Acceptance and Compliance.* — Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

SEC. 11. *Bond.* — The grantee shall file a bond issued in favor of the NTC, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If, after five (5) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise, the bond shall