

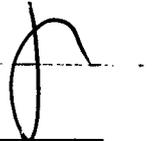
NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

25 JAN 27 P4:27

SENATE

S.B. No. 2961

RECEIVED



Introduced by **SENATOR IMEE R. MARCOS**

AN ACT
RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE
GRANTED TO PACIFIC WIRELESS, INC. UNDER REPUBLIC ACT NO. 8281 TO
CONSTRUCT, ESTABLISH, INSTALL, OPERATE AND MAINTAIN WIRE
AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE
PHILIPPINES

EXPLANATORY NOTE

Article II Section 24 of the 1987 Constitution states that "*The State recognizes the vital role of communication and information in nation-building.*"

Pacific Wireless, Inc. (hereinafter, "PWI" or the "Company") was incorporated in the Philippines and registered with the Philippine Securities and Exchange Commission on September 29, 1995. The Company is 60% owned by Lungsod, Inc. (a 100% owned subsidiary of Kalasag Investments, Inc.) and 40% by Sandaigdigan, Inc.

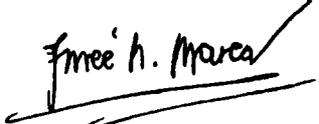
In July 26, 1996, Republic Act No. 8281 entitled: "An Act Granting the Pacific Wireless, Inc., a Franchise to Construct, Establish, Install, Maintain and Operate Wire and/or Wireless Telecommunications Systems Throughout the Philippines" was granted thereby creating numerous possibilities for PWI's growth and expansion.

As such, PWI engaged in providing telecommunications services through all forms of telecommunications services including mobile, cellular, wired or wireless throughout the Philippines.

PWI was also granted by National Telecommunications Commission a VSAT license to operate international and domestic leased channel (IDLC) services using satellite technology. The company has applied for two other licenses; namely, wireless Internet and broadband network.

The PWI currently offers international and domestic leased channel services using satellite technology. Its other activities are in Wireless Internet and Broadband Network. PWI has been pre-qualified by the National Telecommunications Commission to participate in the Public Mobile Telecommunications System (PMTS). Given their previous experience in operating a national telecommunication system, the PWI is looking at using satellite technology to provide telecommunication services for far flung areas currently unserved by existing systems. This endeavor will bring development to the countryside by allowing them stable access to the Internet.

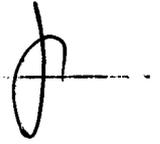
The immediate passage of this legislation is earnestly sought.


IMEE R. MARCOS

SENATE

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

1 SECTION 1. **Renewal of Franchise** – The franchise of Pacific Wireless, Inc.,
2 its successors and assignees, hereinafter referred to as the grantee, to construct,
3 install, establish, operate and maintain for commercial purposes and in the public
4 interest, throughout the Philippines, and between the Philippines and other countries
5 and territories, telecommunications system including mobile, cellular, wired or wireless
6 telecommunications systems, and their value added services such as, but not limited
7 to, transmission of voice, data, facsimile, control signs, audio and video, information
8 and service bureau, and all other telecommunications systems technologies as are at
9 present available or will be made available through technological advances or
10 innovations in the future, and construct, acquire, lease and operate or manage
11 transmitting and receiving stations, lines, cables or systems, as is, or are, convenient
12 or essential to efficiently carry out its purpose, is hereby renewed for another twenty
13 five (25) years from the date of approval of this Act.

14 SEC. 2. **Manner of Operation of Stations or Facilities** –The stations or
15 facilities of the grantee shall be construed and operated in a manner as will at most,
16 result only in the minimum interference on the wavelengths or frequencies of existing
17 stations or other stations which may be established by law, without in any way
18 diminishing its own right to use its selected wavelengths or frequencies and the quality

1 of transmission or reception thereon as should maximize rendition of the grantee's
2 services and/or availability thereof.

3 **SEC 3. *Prior Approval of the National Telecommunications Commission***

4 –The grantee shall secure from the National Telecommunications Commission the
5 appropriate permit and license for its stations and shall not use any frequency in the
6 radio/television spectrum without having been authorized by the Commission. The
7 Commission, however, shall not unreasonably withhold or delay the grant of such
8 authority.

9 **SEC 4. *Responsibility to the Public*** –The grantee shall conform to the ethics
10 of honest enterprise and shall not use its stations for obscene or indecent transmission
11 or for dissemination or deliberately false information or willful misrepresentation, or
12 assist in subversive or treasonable acts.

13 The grantee shall provide basic or enhanced telephone service in any
14 municipality in the Philippines where it has an approved certificate of convenience for
15 the establishment, operation and maintenance of a local exchanges service, without
16 discrimination to any applicant therefor, in the order of the date of their applications,
17 up to the limit of the capacity of its local telephone exchange, and should the demand
18 for the telephone service at any time increase beyond the capacity thereof, the grantee
19 shall increase the same to meet such demand: Provided, That in case the total demand
20 satisfied by the expansion is less than the smallest viable local exchange available in
21 the market as determined by the Commission, the grantee shall not be obliged to
22 furnish said service, unless the applicant for telephone service defrays the actual
23 expenses for the installation of the telecommunications apparatus necessary for such
24 services and in such case, the Commission may extend the time within which the
25 grantee shall furnish such service.

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

31 **SEC. 5. *Right of the Government*** –A special right is hereby reserved to the
32 President of the Philippines in times of war, rebellion, public peril, calamity, emergency,
33 disaster or disturbance of peace and order, to temporarily suspend the operation of
34 any station or facility in the interest of public safety, security and public welfare, or to

1 authorize the temporary use and operation thereof by any agency of the government,
2 upon due compensation to the grantee.

3 **SEC. 6. *Term of Franchise*** –The franchise shall be in effect for a period of
4 twenty-five (25) years from approval of this Act, unless sooner revoked or cancelled.
5 This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to
6 operate continuously for two (2) years.

7 **SEC. 7. *Acceptance and Compliance*** –Acceptance of this new franchise shall
8 be given in writing to the Congress of the Philippines, through the Committee on
9 Legislative Franchises of the House of Representatives and the Committee on Public
10 Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon
11 giving such acceptance, the grantee shall exercise the privileges granted under this
12 Act. Non-acceptance shall render the franchise void.

13 **SEC. 8. *Right of Interconnection*** – The grantee is hereby authorized to
14 connect or demand connection to its telecommunications systems to any other
15 telecommunications systems, installed, maintained, and operated by any other duly
16 authorized person or entity in the Philippines for the purpose of providing extended
17 and improved telecommunications services to the public, under such terms and
18 conditions mutually agreed upon by the parties concerned and the same shall be
19 subject to the review of modifications of the Commission.

20 **SEC 9. *Tax Provisions*** –The grantee, its successors or assigns, shall be liable
21 to pay the same taxes on their real estate, buildings and personal property, exclusive
22 of this franchise, as other persons or corporations are now or hereafter may be required
23 by law to pay. In addition thereto, the grantee, its successors or assigns, shall pay a
24 franchise tax equivalent to three percent (3%) of all gross receipts of the
25 radio/television business transacted under this franchise by the grantee, its successors
26 or assigns, and the said percentage shall be in lieu of all taxes on this franchise or
27 earnings thereof; *Provided*, That, the grantee, its successors or assigns, shall continue
28 to be liable for income taxes payable under Title II of the National Internal Revenue
29 Code pursuant to Section 2 of Executive Order No. 72 unless the latter as enacted is
30 amended or repealed, in which case the amendment or repeal shall be applicable
31 thereto.

32 The grantee shall file the return with and pay the tax due thereon to the
33 Commissioner of Internal Revenue of his duly authorized representative, in accordance
34 with the National Internal Revenue Code, and the return shall be subject to audit by
35 the Bureau of Internal Revenue.

1 SEC. 10. **Dispersal of Ownership** –In accordance with constitutional
2 provisions to encourage public participation in public utilities, the grantee shall offer at
3 least thirty per centum (30%) of its outstanding capital stock or a higher percentage
4 that may hereafter be provided by law in any securities exchange in the Philippines
5 within five (5) years from commencement of its operations. Noncompliance therewith
6 shall render the franchise ipso facto revoked.

7 SEC. 11. **Self-Regulation by and Undertaking of Grantee** –The grantee
8 shall not require any previous censorship of any speech, play, act or scene, or other
9 matter to be broadcast from its stations. *Provided*, That the grantee, during any
10 broadcast, shall cut off from the air the speech, play, act or scene, or other matter
11 being broadcast if the tendency thereof is to propose and/or incite treason, rebellion
12 or sedition, or the language used therein or the theme thereof is indecent or immoral.
13 *Provided*, further, That willful failure to do so shall constitute a valid cause for the
14 cancellation of this franchise.

15 SEC. 12. **Warranty in Favor of National and Local Governments** –The
16 grantee shall hold the national, provincial, city and municipal government of the
17 Philippines free from all claims, accounts, demands or actions arising out of accidents
18 or injuries, whether to property or persons, caused by the construction or operation of
19 the stations of the grantee.

20 SEC. 13. **Sale, Lease, Transfer, Usufruct, or Assignment of Franchise** –
21 The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise
22 or the rights and privileges acquired thereunder to any person, firm, company,
23 corporation or other commercial or legal entity, nor shall the controlling interest of the
24 grantee be transferred to any such private person, firm, company, corporation or entity
25 to which this franchise is sold, transferred or assigned shall be subject to all the same
26 conditions, terms, restrictions and limitation of this Act.

27 SEC. 14. **Reportorial Requirement.** –The grantee shall submit an annual
28 report to the Congress of the Philippines on its compliance with the terms and
29 conditions of its franchise and on its operations within sixty (60) days from the end of
30 every year.

31 SEC. 15. **Separability Clause** –If any of the sections or provisions of this Act
32 as held invalid, all other provisions not affected thereby shall remain valid.

33

1 SEC. 16. **Repealability and Non-Exclusivity Clauses** –This franchise shall
2 be subject to amendment, alteration, or repeal by the Congress of the Philippines when
3 the public interest so required and shall not be interpreted as an exclusive grant or
4 privileges hereinafter provided for.

5 SEC. 17. **Effectivity**—This Act shall take effect fifteen days following its
6 complete publication in at least two (2) newspapers of general circulation.

Approved,