



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
Bonifacio Drive, Port Area, Manila

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October 26, 2018

DEPARTMENT MEMORANDUM)


CIRCULAR NO. **59**)
Series of 2018)

FOR / TO : Undersecretaries
Assistant Secretaries
Service Directors
Bureau Directors
Regional Directors
Heads of UPMOs
District Engineers
This Department

For information and guidance, attached is a certified copy of Republic Act No. 11089 which was approved on October 18, 2018 entitled **"AN ACT GRANTING STREAMTECH SYSTEMS TECHNOLOGIES INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES."**

A copy of said Republic Act may also be downloaded from the **DPWH website: <http://dpwhweb>**. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS, upon request.

For dissemination to all concerned.


B. ELIZABETH E. YAP, Ph.D., CESO II
Assistant Secretary for Support Services

Encl: Republic Act No. 11089 dated October 18, 2018

cc: Office of the Secretary

10.1.4 MKBA/RPE

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand eighteen.

[REPUBLIC ACT NO. 11089]

AN ACT GRANTING STREAMTECH SYSTEMS TECHNOLOGIES INC. 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, there is hereby granted to Streamtech Systems Technologies Inc., hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate, and maintain for commercial purposes and in the public interest, an international gateway facility to serve and connect

the Philippines to other countries and territories, wire and/or wireless telecommunications systems, international and national broadband system, mobile and cellular, including, but not limited to, fiber optics, multichannel multipoint distribution systems, switches, and their value-added services such as transmission of voice, data, facsimile, control signs, audio and video, information services and all other value-added technologies as are available or will be made available through technological advances or innovations in the future; and/or construct, acquire, lease and operate, or manage transmitting and receiving stations, lines, cables, or systems 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 privilege to use its assigned 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) a Certificate of Public Convenience and Necessity and the appropriate permits and licenses for the construction, installation, and operation of its telecommunications systems/facilities. In issuing the certificate, the NTC shall have the power to impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunications systems. The NTC shall also have the authority to regulate the construction and operation of the grantee's telecommunications systems. The grantee shall not use any frequency in the radio spectrum without authorization from the NTC. Such certificate shall state the areas covered and the date the grantee shall commence the service. The NTC, however, shall not unreasonably withhold or delay the grant of such authority, permit, or license.

SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and maintaining poles or other supports for and wires or other conductors for the purpose of laying and

maintaining underground wires, cables, or other conductors, the grantee, its successors or assignees, shall be authorized to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities and/or municipalities, with the prior approval of the Department of Public Works and Highways (DPWH) and the local government unit (LGU) concerned, as may be appropriate: *Provided, however,* That a public place, road, 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 assignees, in accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assignees, 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 disturbed, altered or changed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed in good order and condition and charge the grantee, its successors or assignees, at double the amount of the costs and expenses for such repair or replacement.

SEC. 5. *Responsibility to the Public.* – The grantee shall conform to the ethics of honest enterprise and not use its stations or 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 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.

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

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

SEC. 6. *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 NTC or its legal successor.

SEC. 7. *Right of the Government.* – 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 any time after due process.

A special right is hereby reserved 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 these shall be so-operated.

SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period of twenty-five (25) years from the date of the effectivity of this Act, unless sooner 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 operations within one (1) year from the approval of its operating permit by the NTC;
- (b) Commence operations within three (3) years from the effectivity of this Act; and
- (c) Operate continuously for two (2) years.

SEC. 9. *Commitment to Provide and Promote the Creation of Employment Opportunities.* – The grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operation: *Provided*, That priority shall be accorded to the residents in areas where any of its offices is located: *Provided, further*, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: *Provided, finally*, That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission annually.

SEC. 10. *Tax Provisions.* – The grantee, its successors or assignees, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations which are now or thereafter may be required by law to pay, except radio telecommunications and electronic communications equipment, machinery, and spare parts needed in connection with the business of the grantee which shall be exempt from customs duties, tariffs and other taxes, as well as those declared exempt in this section. In addition thereto, the grantee, its successors or assignees, shall pay a value-added tax on all gross receipts of the business transacted under this franchise by the grantee, its successors or assignees, in the Philippines in lieu of any and all taxes of any kind, nature, or description levied, established, or collected by an authority whatsoever including, but not limited to, city, municipal, provincial, or national, from which the grantee is hereby expressly exempted effective from the date of the effectivity of this Act: *Provided*, That the grantee, its successors or assignees, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72, unless the latter enactment is amended or repealed, in which case amendment or repeal shall be applicable thereto.

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

SEC. 11. *Bond.* – The grantee shall file a bond with the NTC, in the amount that the NTC shall determine, to guarantee compliance with and fulfillment of the conditions under which this franchise is granted. If, after three (3) years from the date of the approval of its permit by the NTC, the grantee shall have fulfilled the same, the bond shall be released by the NTC. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

SEC. 12. *Right of Interconnection.* – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated, and maintained by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under such terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to review and modification of the NTC.

SEC. 13. *Warranty in Favor of the National and Local Governments.* – The grantee shall hold the national, provincial, city, and municipal governments of the Philippines free from all claims, liabilities, demands, or actions arising out of accidents causing injury to persons or damage to property, during the construction or operation of the stations, transmitters, facilities, or equipment of the grantee.

SEC. 14. *Mobile Number Portability.* – The grantee shall provide mobile number portability (MNP). It shall set up a mechanism for the purpose of implementing MNP. It shall interconnect directly or indirectly with the infrastructure, facilities, systems, or equipment of other telecommunications franchise grantees. It shall not install network features, functions or capabilities that will impede the implementation of a nationwide MNP system. The NTC shall issue rules and regulations for this purpose, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees.

SEC. 15. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor

merge with any other corporation or entity, nor shall transfer the controlling interest of the grantee, whether as a whole or in part, and whether simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines and compliance with legal requirements stipulated in other statutes: *Provided*, That any person or entity to which this franchise is sold, transferred, or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 16. *Dispersal of Ownership.* – In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of its operations: *Provided*, That in cases where public offer of shares is not applicable, the grantee shall apply other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SEC. 17. *Reportorial Requirement.* – The grantee shall submit an annual report 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 its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of every year during the term of its franchise. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

SEC. 18. *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 National Treasury.

SEC. 19. *Equality Clause.* – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted upon prior review and approval of Congress, shall *ipso facto* become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided*, That the foregoing shall neither apply to nor affect the 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. 20. *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. 21. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 22. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, or any part or provision thereof which are not consistent with this Act are hereby repealed, amended, or modified accordingly.


SEC. 23. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.


Approved,


VICENTE C. SOTTO III
President of the Senate


GLORIA MACAPAGAL ARROYO
Speaker of the House
of Representatives

This Act which originated in the House of Representatives was passed by the House of Representatives and the Senate on August 29, 2018 and August 15, 2018, respectively.


MYRA MARIE D. VILLARICA
Secretary of the Senate


DANTE ROBERTO P. MALING
Acting Secretary General
House of Representatives

Approved: OCT 18 2018


RODRIGO ROA DUTERTE
President of the Philippines

