Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7531

INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

This bill seeks to grant Instant Data, Inc. (Instant Data) a franchise to construct, install, establish, operate, and maintain telecommunications systems throughout the Philippines.

Telecommunications is an ever growing industry brought about by the rapidly changing and developing technologies designed and developed to cater to the increasing and varying needs and demands of the people and society. To ensure the development and advancement of our country, it is imperative for the country to empower its telecommunications industry by providing the public with access to the various telecommunications services suitable to the existing technology in the market or to be innovated in future.

With its entry in the telecommunications industry, Instant Data desires to fill the gap and the glaring need for telecommunications services in the country, especially in the provinces. Instant Data, Inc. intends to provide the public with varied telecommunications services in the most efficient and affordable manner for the public to be able to avail of services that are best suited for their needs.

Instant Data has the technological expertise and financial capability to provide wired and wireless telecommunications system, like internet connectivity and data communications, through multi-channel multi-point distribution system, local multi-point distribution system, and other telecommunications systems and networks, made more convenient through its own landing stations of submarine cables.

In the view of all the foregoing, the timely approval of this measure is earnestly requested.

XAVIER JESUS D. ROMUALDO
AN ACT
GRANTING INSTANT DATA 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 the Franchise. – Subject to the provisions of the
Philippine Constitution and applicable laws, rules, and regulations, there is hereby granted to
Instant Data, 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, throughout the Philippines and between the Philippines and other countries and
territories, wired and/or wireless telecommunications systems including, but not limited to,
mobile, cellular, fixed line, paging, trunked radio, fiber optics, multi-channel multi-point
distribution system (MMDS), local multi-point distribution system (LMDS), satellite transmit
and receive systems, switches, and value added services such as, but not limited to, transmission
of voice, data, images, facsimile, control signs, audio and video, information services bureau,
and all other telecommunications systems technologies, as are at present 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, 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 and availability thereof.

SEC. 3. Prior approval 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 construction,
installation, and operation of its telecommunications systems and 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 have
the authority to regulate the construction and operation of the telecommunications systems of the
grantee. The grantee shall not use any frequency in the radio spectrum without authorization
from the NTC. Such certificate shall state the areas covered and date the grantee shall commence
the service. The NTC, however, shall not unreasonably withhold or delay the grant of any such
authority, permit, or license.

SEC. 4. Excavation and Restoration Works. – For the purpose of erecting and
maintaining poles or other supports for 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 assignees, with the prior approval of the Department of Public Works and
Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to
make excavations or lay conduits in any of the public places, roads, highways, streets, lanes,
alleys, avenues, sidewalks or bridges of provinces, cities, and municipalities; 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 or other conductors or conduits, shall be repaired and replaced in workmanlike manner by
the 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 DPWH or the LGU concerned, 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 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 at double the
expense of such repair or replacement to be charged against the grantee, its successors, or
assignees.

SEC. 5. Responsibility to the Public. — The grantee shall conform to the ethics of honest
enterprise and not use its stations and facilities for obscene or indecent transmission, or for the
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 city and municipality in the
Philippines where it has an approved Certificate of Public Convenience and Necessity for the
establishment, operation, and maintenance of a local exchange service, without discrimination to
any applicant therefor, 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 NTC, 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 NTC 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. 6. Rates for Services. — The charges and rates for telecommunications services of the grantees, except the rates and charges on those that may hereafter be declared or considered as non-regulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the NTC or its legal successor. The rates to be charged by the grantees 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. 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 grantees 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 grantees, 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 grantees, for the use of said stations, transmitters, facilities, or equipment during the period when these shall be so operated.

SEC. 8. Term of the Franchise. — This franchise shall be in effect for a period of twenty-five (25) years from the date of effectivity of this Act, unless sooner cancelled. This franchise shall be deemed ipso facto revoked in the event the grantees 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; or
(c) Operate continuously for two (2) years.

SEC. 9. Acceptance and Compliance. – Acceptance of this franchise shall be given in writing 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, within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Non-acceptance shall render the franchise void.

SEC. 10. Tax Provision. – Unless exempted therefrom, the grantee, its successors or assignees, shall be liable to pay the same taxes on its real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. The grantee shall, however, be exempt from payment of taxes, customs duties and other similar charges on the equipment, spare parts, and supplies necessary to the grantee’s, its successors’, or assignees’ installation, operation, and maintenance of its telecommunications systems as certified by the NTC or its legal successor; 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 (NIRC), pursuant to Section 2 of Executive Order No. 72, unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The grantee shall file the return with the city or municipality where its principal place of business is located and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the NIRC 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 it 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 conditions, the bond shall be cancelled and 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 the review and modification of the NTC.

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

SEC. 14. 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 such person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines; Provided, That Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of said transaction; Provided, further, That failure to report to Congress such change of ownership shall render the franchise ipso facto revoked; Provided, finally, 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. 15. 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 establishment of cooperatives operating public utilities must be implemented. Noncompliance therewith shall render the franchise ipso facto revoked.

SEC. 16. 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.

Section 17. Penalty Clause. – Failure of the grantee to submit the requisite annual report to the Congress shall be penalized by a fine of five hundred pesos (P500.00) per working day of non-compliance. The fine shall be collected by the NTC from the grantee and shall be separate and distinct from other penalties imposed by the NTC for non-compliance with its reportorial requirements.

Section 18. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under other existing franchises, or which may hereafter be granted, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the grantee, except for taxes and custom duties; 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.
Section 19. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain in full force and effect.

Section 20. Repealability and Non-exclusivity 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 privileges herein provided for.

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

Approved,