

INTRODUCTION
To the
NTC PRACTICES & PROCEDURES MANUAL

1.0 INTRODUCTION

Part A Provides an introduction to the NTC Practices & Procedures Manual, setting out the objectives and format of the document, and the authority under which it was produced.

The manual consists of a number of independent parts, organized so that they may be used to assist those concerned with specific types of processes. It is intended that they will be bound in a simple form, and made available to the public for a nominal fee to recover production costs. The manual will be updated from time to time, as practices change and procedural amendments are introduced.

1.1 Authority

This manual is issued pursuant to the authority of the Commission to promulgate rules and regulations and make necessary rules for the conduct of its proceedings (Sec. 11.CA. 146, as amended & Sec. 11, C.A. 146, as amended & Sect. 15, E.Q. 546).

1.2 Scope

The manual includes board information on relevant constitutional and legislative provisions, decrees and orders relating to entities/agencies charged with the primary policy and

regulatory functions of the government affecting telecommunications and broadcasting. It also covers the range of applications normally handled by the Commission, describing in detail, processes and expected time frames for the most common types of applications.

1.3 Objective

The objective of the manual is to provide a guide to all persons, entities, associations and corporations under the Commission's supervision, regulation and control, all users and the general public, as well as the Commission itself, regarding the handling of applications to the Commission and proceedings being conducted by the commission. This should in turn:

- a) Ensure that Commission proceeding are of sufficient depth to permit quality decision making;
- b) Assist regulated companies to deal efficiently with Commission concerns;
- c) Facilitate informed involvement of interested parties to proceedings; and
- d) To eliminate unnecessary delay in the regulatory process.

2. CONSTITUTIONAL PROVISIONS

Certain provisions of the 1987 constitution describe the State's concerns regarding telecommunications and broadcasting, which in turn serve as the basis for the **government's supervision** over telecommunications and broadcasting service providers.

Article II, Section 24 of the Constitution states as follows:

“ The State recognize the vital role of communications and information in nation building.”

Article XII states as follows:

“ Sec. 10. The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty per centum of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments. The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.”

“ Sec. 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires.

The State shall encourage equity participation in public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.

Sec. 17. In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately owned utility or business affected with public interest.

Sec. 18. The State may, in the interest of national welfare or defense, establish and operate vital industries and upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

Sec. 19. The state shall regulate or prohibit monopolies when the public interest so requires.”

With regard to mass media, including broadcasting, Article XVI (General Provisions), Sec. 11, states:

“The ownership and management of mass media shall be limited to citizens of the Philippines, or corporations cooperatives, or associations, wholly-owned and managed by such citizens.

The Congress shall regulate or prohibit monopolies in commercial mass media when the public interest so requires. No combinations in restraint of trade or unfair competition therein shall be allowed.

3. RELEVANT LAWS

Later parts of this manual will provide additional details, but for the purpose of this part, the Commission was created by Executive Order No. 546, promulgated in 1979. Its general powers were set out in the Public Service Act (CA 146), enacted in 1936. The relevant sections of these documents will be found in the Appendix to Part C of the manual.

**THE
DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS (DOTC)**

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1.0 SCOPE

This part describes the formation of the department as it is currently constituted, and includes its powers and functions. It also provides a summary of key public documents issued by the department in recent years.

2.0 INTRODUCTION

The department of Transportation and Communications (DOTC), formerly created as a Ministry, pursuant to Executive Order 546, on July 23, 1979, was reorganized under E.O. 125-E

on April 13, 1987. The reorganization was made pursuant to Article II, Sec. 1(a) and Article III of the Freedom Constitution.

Its reorganization was effected to promote efficiency and effectiveness in the delivery of public services.

3.0 DOTC MANDATE

Sec. 4 of E.O. 125 states the following”

“Mandate. The Ministry shall be the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity of the Executive Branch of the government in the promotion, development and regulation of dependable and coordinated networks of transportations and communications services”

4.0 DOTC OBJECTIVES

Pursuant to the above mandate, the Department was assigned the following objectives:

- a) **Promote the development of dependable and coordinated networks of transportation and communications systems;**
- b) **Guide government and private investments in the development of the country’s intermodal transportation and**

Communications systems in a most practical, expeditions, and orderly fashion for maximum safety, service, and cost effectiveness;

- c) Impose appropriate measures so that technical, economic and other conditions for the continuing economic viability of the transportation and communications entities are not jeopardized and do not encourage inefficiency and distortion of traffic patronage;
- d) Development an integral plan for a nationwide transmission system in accordance with national and international telecommunications service requirements including, among others, radio and television broadcast relaying, leased channel services and data transmission.
- e) Guide government and private investments in the establishment, operation and maintenance of an international switching system for incoming and outgoing telecommunications services.
- f) Encourage the development of a domestic telecommunications industry in coordination with the concerned entities, particularly in the manufacture of communications/electronics equipment and components to complement and support, as much as possible, the expansion, development, operation and maintenance of the nationwide telecommunications network;

5.0 POWERS AND FUNCTIONS

To accomplish its mandate, the DOTC was given the following powers and functions related to telecommunications.

- a) Formulate and recommend national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation and communications systems at the national, regional local levels;
- b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation or organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such programs.
- c) Assess, review and provide direction to transportation and communications research and developments programs of the government in coordination with other institutions concerned.
- d) Administer and enforce all laws, rules and regulations in the field of transportation and communications;
- e) Coordinate with the Department of Public Works and Highways in the design, location, development, rehabilitation, improvement, construction, maintenance and repair of all infrastructure projects and facilities of the Department. However, government corporate entities attached to the Department shall be authorized to undertake specialized telecommunications, ports, airports and railways projects and facilities as directed by the President of the Philippines or as provided by law;
- f) Establish and prescribe rules and regulations for the establishment, operation and maintenance of such telecommunications facilities in areas not adequately serve by the private

Sector in order to render such domestic and overseas services that are necessary with due consideration for advance in technology;

6.0 DEPARTMENT STRUCTURE

Sec. 8 of E.O. 125-A states that the Secretaries of Transportation and Communications is to be assisted by four (4) Undersecretaries appointed by the President upon the recommendation of the Secretary.

Sec. 9 of E.O. 125A states that the Secretary shall also be assisted by 8 assistant secretaries, responsible for eight services and four line offices.

Aside from the Office of Secretary, the Undersecretaries and Assistant Secretaries, the department also includes the DOTC regional offices and the attached agencies and corporations referred to in Section 14 of the Order. The office of Secretary has direct line supervision over the regional offices.

Since the promulgation of E.O. 125 and 125-A, Congress has enacted R.A 6849 (The Municipal Telephone Act), which creates within the Department, the Municipal Telephone Projects Office, with the mandate of implementing the objectives of the Act, principal among which is the establishment of telephone service in each municipality in the nation. The director of the MTOP, with the rank of Undersecretary, reports to the Secretary. The full text of the Act is found in Appendix 1.

Other changes within the Department made in 1991, aimed at streamlining the operations of the Department, are outlined in Department Order No. 91-535. The text of this document is contained in appendix 1 to this part.

7.0 POLICY PROMULGATIONS

7.1 Dept. Circular No. 87-188

This circular, issued in May, 1987, sets out broad policies intended to guide sector development over the following years. The fourteen policy statements were developed by a government/industry committee, establishing the framework for an increased level of competition in the sector, to accelerate the development and expansion of an efficient and adequate infrastructure as a catalyst of socioeconomic upliftment and political stability.

Although these policies have been improved by other policy statements, especially those contained in the National Telecommunications Development Plan issued in 1990, the full text of this landmark promulgation is contained in Appendix 1 to this part.

7.2 Department Circular No. 90.248

This circular, entitled “Policy on Interconnection and Revenue Sharing by Public Communications Carriers”, sets out the objectives terms and conditions for public network interconnection and the sharing of toll revenues between interconnected companies. The NTC was directed to promulgate the standards and other rules needed for the implementation of the policy.

The full text is contained in Appendix 1 to this part.

7.3 Department Circular no. 90-252

This Circular, entitled “Policies to Promote the Rapid Expansion of Telecommunications in all Regions”, set out the government’s plans regarding privatization, and mandates abbreviated procedures for the approval by NTC of viable expansion projects. It also states the government’s intent to establish arrangements for the onlending of Official Development Assistance to the private sector.

The full text of the circular is contained in Appendix 1 to this part.

7.4 The National Telecommunications Development Plan (NTDP)

In 1990, the DOTC issued the National Telecommunications Development Plan (NTCP), which set out the department's overall policies for the sector and established a comprehensive set of service-oriented targets through the year 2010. The plan takes an aggressive privatization stance and affirms the government's intention to establish an environment to "enable the private sector to confidently pursue the expansion and improvement of basic infrastructure and service that are efficient and that respond to market needs."

The policy for development as set out in the NTDP is as follows:

"The importance of an efficient telecommunications network as a foundation for economic recovery and growth is well recognized, as is the critical need to accelerate the development of telecommunications infrastructure and facilities in the Philippines. Therefore,

the Government's primary goal for the telecommunications sector is growth to the maximum extent warranted by demand and by resource constraints, particularly foreign exchange availability.

The following fundamental policies will shape and drive this central principle of "development first":

- a. **Private enterprise.** *Private enterprise shall be the engine of sector growth, providing an efficient vehicle for development.*
- b. **Sector self-sufficiency.** *The sector shall be financially self-supporting with intra-sectoral cross subsidies fuelling development and expansion toward universal access goals.*
- c. **Network interconnection.** *All public telecommunications networks shall be entitled to interconnection with each other and interconnection with private networks will be encouraged. Interconnection agreements shall provide equitable remunerative arrangements that compensate for facility usage and that recognize the necessity for intra-sectoral cross subsidies."*

With the above broad policy objectives, DOTC will be responsible for setting various policies to guide specific sectoral developments. Such policies will be guideposts for Commission decision making.

The National Telecommunications Development Plan may be seen at the Department of Transportation and Communications Planning Division, on the 5th floor, Philcomcen Building, Pasig, Metro Manila.

8.0 REFERENCE DOCUMENTS

Appendix 1 of this part contains the Department Circulars and certain other documents referenced above, plus the Executive Summary of the NTDP.

Appendix B-I
NTC Rules of Procedure

REFERENCE DOCUMENTS:

INTRODUCTION

This section contains documents which may be of interest to those involved or interested in the policy activities of the DOTC. In some areas, the documents have been excerpted in order to keep the text to a minimum. Wherever possible, available computer files have been the source of the text, but no guarantees of accuracy can be made for these copies. Parties wishing to be certain of the text should avail of the formal copy of the document from the DOTC or source organization.

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NOTE: (The following text covers only those parts of the order which deal with Telecommunications, plus relevant introductory clauses.)

**EXCERPTS FROM EXECUTIVE ORDER NO. 125
-AS AMENDED BY EXECUTIVE ORDER NO. 125-A**

**REORGANIZING THE MINISTRY OF TRANSPORTATION AND COMMUNICATIONS
DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES**

SECTION 3. **Declaration of Policy.** The State is committed to the maintenance and expansion of viable, efficient and dependable transportation and communications systems as effective instruments for national recovery and economic progress. It shall not compete as a matter of policy with private enterprise and shall operate transportation and communications facilities only in those areas where private initiatives are inadequate or non-existent.

SECTION 4. **Mandate.** The Ministry shall be the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity of the Executive Branch of the government in the promotion, development and regulation of dependable and coordinated networks of transportation and communications systems, as well as in the fast, safe, efficient and reliable postal, transportation and communications services.

To accomplish such mandate, the Ministry shall have the following objectives:

- a) Promote the development of dependable and coordinate networks of transportation and communications systems;
- b) Guide government and private investments in the development of the country's intermodal transportation and communications systems in a most practical, expeditious, and orderly fashion for maximum safety, service, and cost effectiveness;
- c) Impose appropriate measure so that technical, economic and other conditions for the continuing economic viability of the transportation and communications entities are not jeopardized and do not encourage inefficiency and distortion of traffic patronage;
- d) Develop an integrated plan for a nationwide transmission system in accordance with national and international telecommunications service requirements including, among others, radio and television broadcast relaying, leased channel services and data transmission;
- e) Guide government and private investments in the establishment, operation and maintenance of an international switching system for incoming and outgoing telecommunications services;
- f) Encourage the development of a domestic telecommunications industry in coordination with the concerned entities, particularly in the manufacture of communications/electronics

equipment and components to complement and support, as much as possible, the expansion, development, operation and maintenance of the nationwide telecommunication network;

- g) Provide for a safe, reliable and efficient postal system for the country.

SECTOR 5. Power and Functions. To accomplish its mandate, the Department shall have the following powers and functions:

- a) Formulate and recommend national policies and guidelines for the preparation and implementation power and functions:
- b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation, or organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such programs;
- c) Assess, review and provide direction to transportation and communications research and development programs of the government in coordination with other institutions concerned;
- d) Administer and enforce all laws, rules and regulations in the field of transportation and communications;
- e) Coordinate with the Department of Public Works and Highways in the design, location, development, rehabilitation, improvement, construction, maintenance and repair of all infrastructure projects and facilities of the Department. However, government corporate entities attached to the Department shall be authorized to undertake specialized telecommunications, ports, airports and railways projects and facilities as directed by the President of the Philippines or as provided by law;
- f) Established, operate and maintain a nationwide postal system that shall include mail processing, delivery services, and money order services and promote the art of philately;
- g) Issue certificates of public convenience for the operation of public land and rail transportation utilities and services;
- h) Accredite foreign aircraft manufacturers and/or international organizations for aircraft certification in accordance with established procedures and standards;
- i) Establish and prescribe rules and regulations for identification of routes, zones and/or areas of operation of particular operators of public and services;
- j) Established and prescribe rules and regulations for the establishment, operation and maintenance of such telecommunications facilities in areas not adequately served by the private sector in order to render such domestic and overseas services that are necessary with due consideration for advances in technology;

- k) Establish and prescribe rules and regulations for the operation and maintenance of a nationwide postal system that shall include mail processing, delivery services, money order services and promotion of philately;
- l) Establish and prescribe rules and regulations for the issuance of certificates of public convenience for public land transportation utilities, such as motor vehicles, trimobiles and railways;
- m) Establish and prescribe rules and regulations for the inspection and registration of air and land transportation facilities, such as motor vehicles, trimobiles, railways and aircrafts;
- n) Establish and prescribe rules and regulations for the issuance of licenses to qualified motor vehicle, drivers, conductors, and airmen;
- o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;
- p) Determine, fix and/or prescribe charges and/or rates pertinent to the operation of public air and land transportation utility facilities and services, except such rates and/or charges as may be prescribe by the Civil Aeronautics Board under its charter, and, incases where charges or rates are established by international bodies or associations of which the Philippines is a participating member recognized by the Philippine government as the proper arbiter such charges or rates;
- q) Establish and prescribe the rules, regulations, procedures and standards for the accreditation of driving schools;
- r) Administer and operate the Civil Aviation Training Center (CATC) and the National Telecommunications Training Institute (NTTI) and
- s) Perform such other powers and functions as may be prescribed by law, or as may be necessary, incidental, or proper to its mandate or as may be assigned from time to time by the President of the Republic of the Philippines.”

Done in the City of Manila, Philippines, this 13th day of April, in the year of our Lord, Nineteen Hundred and Eighty Seven.

By the President

(Signed) Corazon C. Aquino

(Full reproduction of original text)

DOTC Department Circular No. 87-188

Pursuant to the provisions of the 1986 Constitution which fully recognized the vital role of communications in nation building and in order to ensure that the country is provided with universal essential services at reasonable rates, to foster innovation, particularly in advanced information services, to encourage the participation of private enterprise in a regulated, fair and competitive environment, and to accelerate the development and expansion of an efficient and adequate telecommunications infrastructure as a catalyst for socioeconomic upliftment and political stability, under a system of free enterprise, the following Department policies are hereby enunciated;

1. There shall be a coherent and orderly development of the nationwide communications services provided that establishment of such services shall be subject to a competitive and regulated entry to the market;
2. There shall be at least one integrated and reliable nationwide telecommunications transmission facility with adequate capability to provide voice, record and data services interconnecting all major cities and towns;
3. The application of the state-of-the-art and cost-effective technology in telephony, record and data services as in the use of the digital transmission technique, shall be encouraged. For this purpose, government shall encourage and support applied research and development to meet technological challenges and provide innovations for self-reliance;
4. All telecommunications equipment to be installed shall conform with accepted CCIR and/or CCITT recommendations consistent with the government's policy towards the use of the state-of-the-art technology;
5. There shall be an orderly, expeditious and rationalized management of the radio frequency spectrum for an efficient, economic and optimized utilization of a limited natural resource;
6. There shall be at least one reliable nation-wide marine coastal communications system to provide ship-to-shore and shore-to-ship communications services fully interconnected to the public networks pursuant to comparatively efficient interconnection (CEI). Parameters defined by the National telecommunications Commission (NTC);
7. Mobile radio communications and any value added network for public use interconnected to the public telecommunications network shall be authorized only to enfranchised carriers;
8. The development/installation of all government transmission networks shall be rationalized to avoid fragmentation of facilities and waste of limited resources;

9. The Department shall continue to operate and maintain its telecommunications services in primarily unserved and inadequately served areas. It shall, however, encourage the entry of private enterprise in such areas when economic viability may be proven to exist subject to guidelines set by the government.
10. The connection of customer provided equipment (CPE) to the public telecommunications networks may be allowed subject to guidelines set by the government in an orderly manner consistent with public interest, network integrity, and safety;
11. The development of a domestic telecommunications manufacturing sector shall be encourage, particularly in the manufacture of electronic and communications equipment and components to complement and support the expansion, development, operation and maintenance of an efficient nationwide public telecommunications network;
12. All public communications carriers shall interconnect their facilities pursuant to comparatively efficient interconnection (CEI) as defined by NTC in the interest of economic efficiency;
13. Any and all value added services for public use shall be subject to the grant of permits or Certificates of Public Convenience and Necessity (CPCN) from the National Telecommunications Commission;
14. The existing policy on the “international gateway” shall be subjected to change taking into consideration the progress and needs of the country to ensure that public interest and a national security shall be served.

In this connection, Ministry Circular No. 82-046 is superseded and any other memorandum orders, pursuant to said circular or otherwise in conflict with this Department Circular are hereby deemed revoked, amended or revised.

The national Telecommunication Commission is hereby directed to formulate recommendations to implement these policies in consultation with the telecommunications sector, users and other agencies of the government.

This circular takes effect immediately.

Pasig, Metro Manila, Philippines, 22 May 1987.

(Signed)

Rainerio O. Reyes
Secretary.

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DOTC DEPARTMENT CIRCULAR
NO. 90248

Subject : Policy on Interconnection and Revenue Sharing by Public Communications Carriers

WHEREAS, it is the objective of government to promote the rapid expansion of telecommunications services in all areas of the Philippines;

WHEREAS, there is a need to maximize the use of telecommunications facilities available and encourage investment in telecommunications infrastructure by suitable qualified service providers;

WHEREAS, in recognition of the vital role of communications in nation building, there is a need to ensure that all users of the public telecommunications service have access to all other users of the service wherever they may be within the Philippines at an acceptable standard of service and at reasonable cost.

WHEREFORE, IN the fulfillment of the above and pursuant to the powers vested upon the Department to establish and administer comprehensive and integrated programs for communications; provide direction to communications development; and establish and prescribe rules and regulations for the operation and maintenance of telecommunication facilities, the following Department policies on interconnection and revenue sharing are hereby promulgated;

1. All facilities offering public telecommunications services shall be interconnected into the nationwide telecommunications network/s.
2. system interconnected requires technical compatibility and agreement on facility responsibilities with respect to transmission, switching and signaling interfaces; message accounting arrangements for billing, as well as service performance; end user access; and installation, maintenance and repair practices.
3. To achieve uniform service quality and efficient in networking, all service operators, whether government or private, must follow national standards approved by the National Telecommunications Commission (NTC). These standards shall be formulated revised or modified through a transparent process of consensus involving all interested parties including service providers, equipment suppliers, user groups, and government. The NTC shall have the final approval of the standards.
4. The interconnection of networks shall be effected in a fair and non-discriminatory manner and within the shortest time-frame practicable.
5. The precise points of interface between service operators shall be as defined by the NTC, and the apportionment of costs and division of revenues resulting from interconnection of telecommunications networks shall be as approved and/or prescribed by the NTC.
6. All other matters being equal, traffic settlement agreements shall be based upon a recovery of too-related costs and a fair return on the investment of both companies in the facilities employed in making the toll calls exchanged between the systems. Unless otherwise

mutually agreed, the toll carrier shall meet the local exchange carrier at the main distribution frame of the exchange designated by the local carrier.

7. Due recognition must be given by operators to the critical importance of conforming with international standard practices to lower cost and speed development of telecommunications infrastructure.
8. Subsidies shall be recognized and approved on the basis of sound public policy.
9. Due regard shall be given to relevant recommendations, such as CCITT, particularly on the quality of standards of service to be offered to the public.

The National Telecommunications Commission (NTC) is hereby directed to promulgate the Standards, Rules and Regulations for the effective and immediate implementation of this Circular.

Any Memorandum, Circular, Order, rules and regulations which are in conflict with this Circular are hereby deemed superseded, amended or repealed.

This Circular may be revised, amended or repealed as the Department deems fit and shall take effect within (15) days after publication in a newspaper of general circulation.

Pasig, Metro Manila, Philippines, 14 June 1990.

(Signed)

OSCAR M. ORBOS
Secretary

(Full reproduction of original text)

10 August 1990

DOTC Department Circular No. 90-252

Subject: Policies to Promote the Rapid Expansion of Telecommunications in all Regions

The Government's primary goal for the telecommunications sector is growth to the maximum extent within the shortest time practicable, warranted by demand and by resource constraints, particularly foreign exchange availability.

The earthquake disaster has demonstrated anew the immediate need for the rapid provision of improved telecommunications services and facilities in all areas of the Philippines, over and above the initiatives that are already underway.

In support of this urgent need, it is hereby declared that:

1. The government will rely on the private sector to build and operate telecommunications facilities in all regions, all such facilities to be interconnected to form part of a single national network with appropriate revenue sharing arrangements as enunciated in Department Circular 90-248 and promulgated in National Telecommunications Commission Memorandum Circular 7-13-90.
2. As soon as suitable qualified private operators can be found, the government will privatize its existing telecommunications operations, and will only enter into new ventures when there is no private sector alternative and as a temporary arrangement.
3. The National Telecommunications Commission is directed to establish abbreviated procedures to ensure rapid approval of viable projects proposed by the private sector which can be implemented on a timely basis.
4. The government will establish arrangements whereby official development assistance funding can be made available to the private sector to finance construction of new facilities which further the government objectives.

Pursuant to the policies enunciated above, the Department of Transportation and Communications hereby invites qualified private sector entities to submit projects to the National Telecommunications Commission for their prompt approval. The Commission shall give priority consideration to initiatives which result in immediate expansion of service to unserved and underserved rural areas.

This circular takes effect immediately.

(Signed)

OSCAR M. ORBOS
Secretary

Republic of the Philippines
Department of Transportation and Communications

EXECUTIVE SUMMARY
OF THE
NATIONAL TELECOMMUNICATIONS DEVELOPMENT PLAN
(1991-2010)

October 1990

EXECUTIVE SUMMARY

The National Telecommunications Development Plan 1991-2010 (NTDP) was prepared by the Department of Transportation Communications (DOTC) under the authority of the Secretary of Transportation and Communications and with the cooperation of the private sector and of other Government agencies.

The purpose of the NTDP is to provide a framework of Government policies, objectives and strategies to guide telecommunications sector development over the next 20 years. The DOTC will update the NTDP through periodic reviews and a full plan reassessment and reissue every five years.

This Executive Summary presents the major findings, conclusions and recommendations derived from the 1990 edition of the NTDP.

Section A A BROAD ASSESSMENT OF THE SECTOR

The issues and constraints that affect telecommunications development in the Philippines are summarized in Figure 1. The deficiencies shown in the figure all contribute to a reduction or dilution of already scarce funds needed for service expansion and improvement. While the shortage of funds itself is a serious problem, the alleviation of the other major sector deficiencies would lead to much more efficient application of available investment capital, and could by itself be a major incentive to new investors. Many of the deficiencies are within the control of government.

1 SITUATION ANALYSIS

This section examines the key elements of the telecommunications sector, with emphasis on those issues that continue to handicap sector efficiency and development.

1.1 Quality and Availability of Service

Recent studies have revealed that on a nationwide basis, there is a large unmet demand, some 30% in areas where service is offered, and only 20% of the nation's 1600 municipalities have access to toll telephone service. Moreover, where service is available, it does not generally meet reasonable quality standards. There are also situations where service is available, it does not generally meet reasonable quality standards. There are also situations where existing exchanges are not interconnected to the public switched telephone network.

Although mandated to monitor and enforce quality of service performance, the National Telecommunications Commission (NTC) does not collect performance statistics from operators and has not developed performance standards. In addition, neither national nor local government operators are subject to NTC regulation and therefore operate outside NTC jurisdictional bounds for service performance. This has also led to overlapping franchises, with disputes over access to long distance facilities and other anomalies resulting in poor service.

While there are government and private sector programs aimed at improving the situation, there has been no overall plan which sets out nationwide service objectives, regional priorities, or quality standards. The government intends to address this pressing need through the NTDP.

1.2 Revenues for Local Telephone Operators

Toll revenues from international and national calls account for more than 65% of PLDT's annual revenues, with international calls comprising almost 80% of toll revenues. On the other hand, toll revenues account for only about 10% of the revenues of the smaller operators. The reasons for the low toll revenue levels of the small operators are as follows:

- a. The absence of adequate interconnection. Twelve of the existing operators (representing 40 exchanges) are not connected to PLDT facilities, while those which are connected can effectively make calls only to Manila.
- b. The minimal revenue share of small operators. Aside from the fact that the sharing rate is low (normally 30% for domestic calls and 7% for international), there are some sources of toll revenues that are not monitored and for which the independent connecting carriers (ICCs) get no share, the principal source being incoming international calls, which comprise the bulk of the traffic.
- c. The revenue sharing structure. Most ICCs share of revenues are computed as a straight percentage of the collection base; as a result, exchanges nearer Metro Manila, for example, get a lesser amount since their base per minute is lower.
- d. Long-distance rates. The domestic long-distance rate structure is very complex, with insufficient cost recognition. For example, there are more than 50 distance bands or rate steps, and operator-handled calls carry a premium of only P4, whereas the cost of operator handling is estimated at five times that level. Continuing this type of subsidy discourages the development of more cost-effective use of the network.

With regard to local rates, charges vary throughout the country, partly because not all operators are regulated by the NTC, and partly because the NTC itself has no consistent policy guidelines for rate setting. This has led to very low rates in rural areas, especially for the small independent companies whose service is generally poor, which in turn has resulted in inadequate revenues to improve service.

Finally, the process of determining the carriers' revenue requirements, to be met through rates charged to subscribers, needs a thorough review. At present, the rate of return is fixed at 12% of a rate base comprising the appraised value of plant in service plus two months' operating costs. This method, and the rate of return, were established in 1935, and clearly, requires so much judgmental tinkering as to be totally unrelated to the audited accounts of the carriers. This methodology needs a full overhaul if rate-of-return regulation is to serve the public interest.

The factors cited above have inhibited new investment, particularly in the rural areas, since conventional financing at reasonable rates has been unavailable to smaller operators. Moreover, existing carriers have tended to concentrate their efforts on the urban areas, where satisfying unmet demand can produce higher profits.

Thus, since it has been shown that overall, the sector is financially viable, there is a need for change in intra-sectoral subsidy flows in order to encourage local expansion. In addition, to avoid undue distortions in some market segments, special financial incentives may be needed from Government, especially regarding access to ODA funding sources.

1.3 The Role of Government

The Government has been playing a role in the sector, first as policy maker and regulator, through the DOTC and NTC respectively, second as an operator of facilities through its operating arm, TELOF, and third, as a developer, through its access to ODA funding.

a. The Government as an Operator

The Government has undertaken to provide service in “unprofitable” areas, loosely defined as anywhere the private sector has not entered. There have been efforts over the years to establish service through TELOF which were limited in scope due to dependence on foreign aid arrangements, and operating budget limitations led to deterioration of facilities and service quality. Another major impact is that the presence of the Government as a n operator in “unprofitable” areas has obviated the notion of placing an obligation on the dominant operator (PLDT) to provide service to all areas. This has deterred expansion into unserved areas.

Finally, there is the burden on the tax-paying public to cover TELOF operating losses. Experience in other developing countries has shown that telecommunications services need not be directly subsidized by the Government.

b. The Government as a Developer

A survey of relevant government agencies and financial institutions in 1989 revealed the availability of substantial capital resources from both foreign and local sources that the Government has not been able to channel to the private telecommunications sector with dispatch and on favorable terms.

In July, 1989, the government took on a major development responsibility in the form of the Municipal Telephone Act (R.A.6849), in which the government commits itself to facilitating the establishment of public calling stations in every municipality in the Philippines by 1992. To this end, the legislation established the Municipal Telephone Project Office within the DOTC. Under the legislation, the private sector is called upon the exercise the first option to provide the service.

c. The Government as a Policy Maker

The DOTC's current policy statements are contained in Department Circular 87-188 – a document written with private sector inputs and reflecting the lack of consensus positions on some issues, resulting in vague and incomplete policies. While consensus on matters of mutual concern is useful, the government must consider its role as a policy maker as serving the public interest, and not only the interests of the industry. For this reason, independent policy-making, with consultation should be the hallmark of this aspect of the DOTC role. This will require additional professional resources. There is an urgent need for more precise and detailed policies to be developed by government on the issues on which consensus amongst industry leaders cannot be achieved, such as competition, service priorities and overall industry structure.

d. Relationship between the Policy Maker and the Regulator

There is no legislation or public policy to guide the DOTC or the NTC as to how policy and regulation should be harmonized, and this, coupled with the fact that policy formulation has not kept pace with technological or political developments, is a problem that needs urgent attention. While pending legislation may assist in providing guidance, it will be necessary for legislators, regulatory leaders and policy makers to cooperate in determining how to best address the serious problems confronting the sector.

The above factors, in summary, suggest that the government must clarify its role in the telecommunications sector – the most positive change being to act as a facilitator, policy leader and enabler, rather than as a competitor to the private sector.

Section B STRATEGIES FOR DEVELOPMENT

The foregoing has described the major constraints which must be addressed before real progress can be made toward improvement of the nation's telecommunications infrastructure. The major problems in summary are first, serious shortages and distributional problems for telephone service, inadequate returns for local operators from local and settled toll revenues, and a lack of clear direction and policies from government. In this section the deficiencies are addressed under three broad categories:

- development policy;
- time-bound sector development targets; and
- approaches to achieving sector goals.

These guideline seek rapid and efficient sector expansion through the creation of an environment that is conducive to private enterprise investment, and through the formation of a rational framework within which financial and technical planning activities can effectively take place.

1 A POLICY FOR DEVELOPMENT

The importance of an efficient telecommunications network as a foundation for economic recovery and growth is well recognized, as is the critical need to accelerate the development of telecommunications infrastructure and facilities in the Philippines. Therefore,

The Government primary goal for the telecommunications sector is growth to the maximum extent warranted by demand and by resource constraints, particularly foreign exchange availability.

The following fundamental policies will shape and drive this central principle of “development first”:

- a. **Private enterprise.** Private enterprise shall be the engine of sector growth, providing an efficient vehicle for development.
- b. **Sector self-sufficiency.** The sector shall be financially self-supporting with intra-sectoral cross subsidies fuelling development and expansion toward universal access goal
- c. **Network interconnection.** All public telecommunication networks shall be entitled to interconnection with each other and interconnection with private networks will be encourage. Interconnection agreements shall provide equitable remunerative arrangements that compensate for facility usage and that recognize the necessity for intra-sectoral cross subsidies.

As contemplated by the Telecommunications Policy Bill now pending, (S.B. 1353), the DOTC shall promulgate basic policy in support of the foregoing fundamental policies and the NTC shall be the instrument of ensuring their execution; therefore, all public telecommunications facility operators and service providers shall be subject to NTC regulation.

With the government’s focus on development, all sector options, decisions and actions will be weighted for relevance against this precept.

2 QUALITY AND AVAILABILITY OF SERVICE – DEVELOPMENT TARGETS

Time-bound development objectives are summarized in Table 1. These indicate the Government’s current perception of minimum sector requirements and are not to be taken as exhaustive of sector needs. Efficient development beyond these minima, to meet new or faster-growing demand, is encourage. future editions for the NTDP will evolve these targets to fit emerging demand patterns and national priorities.

Table 1: SUMMARY OF PHYSICAL TARGETS

Criterion	1989 status	Target Status	Target Year	Addition Manpower Required	Investment Cost (\$ Million)
1. Main Station Density Per 100 inhabitants [a]	1.0	1.9 2.4 3.5	1995 2000 2010	39,854	8,375
2. Telephone Quality of service			2005	Minimal	40
Service application response within four weeks	62%	98%	2005		
Monthly trouble rate	17%	5%	2005		
Trouble response within two days	89%	98%	2005		
Other standards	NA	To be set by NTC			
3. Percentage of Local Exchanges with Long-Distance Interconnection	85%	100%	1991	153	27
4. Percentage of Municipalities with Public Call Office (PCO) Service	22%	100%	1997	4,531	117
5. Mobile Telephone Service Availability [b]				86	20
Metro Manila	Available 1989				
Cebu	Not Available		1992		
Davao, Cagayan de Oro, Zamboanga	Not Available		1995		
6. Percentage of Municipalities and Cities Access to Public Switched Data Network [c]	0.6%	15% 35% 50%	1995 2000 2010		
7. Percentage of Municipalities and Cities With Access to Non-switched Digital Data Circuit [d]	0.6%	25% 45% 55%	1995 2000 2010	5,405	211
8. Percentage of Municipalities with Telegraph Service vial Cable or Radio	89%	100%	1995	Minimal	5
9. Integrated Services Digital Network (ISDN) Trial Exchanges [e]				Minimal	4
Manila	None	Operating 1993			
Cebu	None	Operating 1995			
				50029	8,799
TOTALS					

NOTE:

- a. The main station density target broadly aims to raise telephone supply toward demand nationwide. Much of this demand will be toward existing and new urban exchange areas.
- b. PCO service to the barangay's could use a mobile technology overlay with fixed subscriber.
- c. Location for data services correspond to Major urban centers (MCUs) and Key Development (KDCs).
- d. Telegraph service at the municipal level will be phased out in favor of PCO service which will have telegraph capability.
- e. Future ISDN targets would be predicated on further study and the results of the trials.

The targets were selected to balance economic and social objectives and were set using an interactive process that considered forecasts of demand, foreign exchange availability, sector capability and economic and financial feasibility. Beyond 1995, the target for telephone penetration is tailored to fit the “most probable” demand curve.

Figure 2
FORECAST ANNUAL INVESTMENTS

The annual investments estimated to achieve these targets are shown in Figure 2. These investments total nearly \$9 billion including both foreign exchange and local currency components (expressed in 1989 prices) across the 20-year period. In addition, some 50,000 workers will be needed to operate and maintain the new facilities. The cost of raising the nationwide telephone density from 1% in 1989 to 3.5% by the year 2010 is estimated at \$8.4 billion at 1989 prices. The attainment of a higher nationwide telephone density by the end of the Plan period may be warranted by accelerated economic growth or other developments; however, the cost of providing, say, 10% telephone density by the year 2010 is estimated to be \$29.2 billion, which could not be supported by current or forecast levels of demand.

With respect to rural telecommunications development, pursuant to the Municipal Telephone Act (RA 6849), the provision of basic access to telephone service down to the municipal level has been accorded high priority. As mandated in the legislation, the DOTC has formed the Municipal Telecommunications Projects Office (MTPO) to facilitate and coordinate the rural service program.

3. ACHIEVING THE GOAL

3.1 Institutional Reform

While pending legislation provides some guidance regarding the respective roles of the DOTC and the NTC, it will not materially improve the efficacy of the policy/regulatory process without fundamental change in both agencies.

The DOTC must change from being a service developer and provider, to being a leader of the sector. This requires the addition of skills that are not currently resident in the department, and basic changes to the organization that recognize the new priorities. The department will commence immediately, in consultation with appropriate central agencies, to develop a new structure for its organization, covering the following areas:

- a. Create a national policy unit with engineering, socio-economic, and financial skills.
- b. Create units responsible for industry structure and liaison, international telecommunications, satellite communications, technology analysis, standards policy, NTC liaison, and coordinating the Government's own use of telecommunications facilities.

The NTC, while having a more logical structure and more specialized technical resources than the DOTC, is nonetheless inadequately equipped to deal with the complex issues of today's telecommunications environment. The NTC Reorganization Bill will help, but again, it will take time for change to occur. One of the most important aspects of the new legislation is the introduction of collegial decision making among the members of an expanded Commission. With the right mix of backgrounds and skills, such a group could more easily cope with the difficult issues confronting the Commission, especially if professional staff resources are also increased as contemplated by the Bill.

3.2 Privatization of Government Operations

The Government's policy will be to entrust the operation of public telecommunications throughout the country to private carriers. While there has been in the past, some direct government intervention into pioneering areas, the Government is convinced that this model is inappropriate for the orderly growth and development of the Philippines' telecommunications sector, and thus, it has concluded that it must privatize systems now operated by TELOF, the RTDP now operated by Filphone, and the NTP as, or before it is implemented.

Since each of these system is unique, each will require a different specific process to privatize. However, in all cases, the Government will employ an open, transparent process aimed at choosing carriers who are qualified to conduct operations, finance their growth, and provide quality service on a long-term basis.

3.3 Market Structure

The Government's agreement policy is to move toward liberalization. The NTC will control the change process consistent with the national interest – that is, move each market segment or service to an appropriate degree of competition at the appropriate time.

It is also noted that the Telecommunications Policy Bill (S.B. 1353) contains a description of a market structure that calls for increased competition and a “sectionalized” approach to corporate organization. This will be helpful in defining a broad framework, but the NTC must develop the rules for the regulatory system that will govern the result.

3.4 Revenues for Local Operators – Encouraging Investment

It has been shown that overall, the sector is viable; what remains is to develop a method of distributing revenue so that investment in local exchange service, especially in rural areas becomes a financially attractive proposition.

A working group of the NTDC, chaired by a senior official of the NTC, has developed a revenue sharing formula that should encourage the establishment and growth of smaller-scale telephone operators.

The proposed revenue sharing formula provides for increases in the revenue share to the smaller companies of approximately 100% for international long-distance calling, and 20% for domestic calls. Financial models developed by committee support staff and endorsed by the carriers, have shown that a new local exchange can be financially viable under this scheme. It was also shown to support a plan under which an existing system could be upgraded to modern technology.

When implemented, the revenue sharing formula must be constantly monitored by the NTC to ensure that it is adequate, and that local operators are putting the increased revenues directed to them to proper use.

It is also recognized that long-distance rate levels need review and change to maximize revenue and hence cross-subsidy potential for financing local service development.

A report from the technical subcommittee to the interconnection and revenue sharing working group recommends an approach to developing and maintaining technical standards. PETEF has been asked to undertake the remaining work, and to consider the establishment of a permanent Standards Office within the private sector. This will be followed by the DOTC. If funding is a problem, “seed” money may have to be sought from among the donor countries offering support to sector development.

With regard to local service revenues, the structural difficulties with tariffs or telephone and certain other public network services warrant attention. A consistent and practicable policy for local rate setting is required, and consideration must be given to the introduction of local measured service to ensure that exiting demand is satisfied at rate levels that produce revenues to finance growth.

Finally, the determination of the rate of return must be reviewed by the NTC, with the following factors in mind:

- a. The rate of return allowed should be attractive to existing and prospective investors. It may therefore be related to a stable investment instrument such as long-term bonds or blue chip equity investment.

- b. The basis for computation should be easily subject to an independent audit, should consider factor of efficiency and be based on established technical and financial performance standards.
- c. Sanctions should be imposed on operators who exceed the maximum allowable rate of return normally in the form of a refund of overcharges to subscribers, plus overall reduction in rates.

3.5 Operational Assistance to Small Operators

DOTC will develop a means of providing operational assistance to small operators. The following areas will be addressed:

- a. Management and technical training in the operations of a telecommunications company;
- b. Consolidation of equipment acquisitions for international competitive bidding;
- c. Consolidation of the provision of common business functions, such as computerization and accounting and reporting;
- d. Training and orientation on the implementation of a uniform system of accounts and a standard financial reporting system;
- e. Identification of favorable sources of financing and facilitating financing arrangements; and
- f. Assistance in conducting feasibility studies for improvement and expansion projects.

3.6 Financial Incentives

In line with current policy and in response to the sector's requirements, the Government is looking at the following two means of providing financial assistance to telecommunications operators: (i) access to the long-term foreign exchange financing for capital equipment and (ii) operating incentives for improved liquidity during the formative years of telecommunications company.

In addition to the standard BOI incentives on tax-free equipment acquisition, it has been recommended that telecommunications investors should be granted the other benefits available to registered pioneer enterprises. These include the income tax holiday of five years from registration and the labor expense deduction thereafter.

Two alternative means of providing private sector access to available long-term foreign exchange financing have been identified. First, using an accredited financial institution, such as the Development Bank of the Philippines (DBP), funds source by the National government may be lent to operators either in pesos or in foreign currencies. Second, in coordination with the DOTC as the executing agency, the Asian Development Bank (ADB) or the World Bank may provide umbrella co-financing arrangements. The draft proposal for these financial incentives will be endorsed by the DOTC to the Cabinet Assistance System (CAS) for approval. CAS approval should set the mechanism for the DOTC in coordination with the Department of Finance (DOF), the National Economic and Development Authority (NEDA), and DBP (as financial conduit), to draw up terms of reference of the relending package. A more detailed feasibility study of the relending program will be undertaken by the DOTC. This study should be completed during

1990 and, if feasible, implemented immediately. The initial work of the NTDC Task Force in this area should serve as a good take-off point for this study.

Section C

THE NATION AS BENEFICIARY

There are strong incentives to achieve sector reform and accelerate development. This Section briefly highlights the results of the financial and economic evaluation undertaken with respect to the development targets set out in the NTDP.

1 THE BUSINESS CASE

Financial projections generally based on existing legal, regulatory, financial and operating conditions but reflecting the demand forecasts, development targets, and tariff adjustments recommended in the Plan indicate that the telecommunications projects evaluated will have an overall internal rate of return (IRR) of 12.2%. This exceeds the interest rate on treasury bonds, currently 6% after adjusting for inflation, which is used as a hurdle rate.

The financial evaluation also shown that although the projects are financially attractive when considered in the aggregate, under current conditions (i.e., without the changes proposed in the Plan) some project categories may be financially unattractive. In particular, the rural projects will require changes to current intra-sectoral cross subsidies in order to be viable. When the proposals for tariff adjustments, revised revenue sharing schemes, and interest rates on long term financing lower than prevailing market rate contained in this Plan are reflected in the financial models, viability of the operations of these subsectors will improved sufficiently to meet the 6% hurdle rate and the WCC required by NEDA. For instance, it has been determined that an IRR of 6.6% for ICCs can be attained by (1) an increase in local service rate from 40% to 70% of PLDTs Metro Manila rates; (2) a 40% increase in domestic toll tariff from P5.20 to @7.30 per minute; (3) a proposed average revenue per minute (ARPM) adjustment for determining ICCs' share in domestic toll revenues; (4) an increase from 9% to 20% of the ICCs' share in international toll revenues; and (5) reduction of interest to about 12%. All of these changes are considered feasible.

2 THE ECONOMIC CASE

The underdeveloped state of telecommunications infrastructure in the Philippines is often cited as a major deterrent to (i) increased foreign investments, especially in communications-dependent export industries, and (ii) investments in less developed areas of the country. To meet unserved demand and support accelerated and sustained economic growth, appropriate telecommunications sector investments must be given a level of priority commensurate with their development importance.

The potential benefits of telecommunications services to the economy include the following:

- a. Reduced transport costs and energy consumption;
- b. Reduced isolation of remote areas;
- c. Improved response to national and personal emergencies;
- d. Improved resource usage;
- e. Improved efficiency of freight transport;

- f. More efficient ordering, collection, and distribution of agricultural and fishing products, particularly perishable product;
- g. Better financial control;
- h. Improved feasibility of organizational decentralization;
- i. Additional foreign exchange earning from export businesses aided or made possible by improve telecommunications;
- j. Reduction in the need for personal travel;
- k. Maintenance of family ties;
- l. Provision of health and education services to outlying areas;
- m. Reduction of migration from rural to urban areas.

In evaluating capital investment projects, the National Economic and Development Authority and the inter-agency Investment coordinating Committee are currently using 15% as the minimum desired economic internal rate of return (EIRR) until a study to update this figure is completed. Preliminary results of the update study indicate that a downward revision, may be appropriate. In any event, the overall EIRR for the projects considered in the financial evaluation is 17%. Thus, in overall terms, the proposed projects are viable, and deserving of investment capital for needed growth.

The EIRR analysis took into account only quantifiable factors based on the financial projections model discussed in Chapter VII (FINANCIAL EVALUATION). Many of the economic benefits expected from telecommunications projects cannot be quantified reliably. The inclusion of money values for such benefits, if available, would significantly improve the projects computed EIRR.

(Full Reproduction of Original Text)

13 August 1991

DEPARTMENT ORDER NO. 91-535

Subject : **STREAMLING OF THE DOTC ORGANIZATION**

Pursuant to the provisions of R.A. No. 7078 (CY 1991 General Appropriations Act) reducing the number of Undersecretaries and Assistant Secretaries, a redistribution of the functions and responsibilities within is hereby effected for the guidance of all concerned.

1. The principal line functions of the Department shall be distributed among the following:
 - a) **Transportation Group** – which will perform planning and operations functions of the land, water and air transport sectors.
 - b) **Communications Group** – which will perform planning and operation functions of the telecommunication sand postal service sectors.
 - c) **Project Management Group** – which will undertake project preparation, detailed engineering, contract administration, works engineering, project execution, and project monitoring.
2. The **Transportation Group**, which will be headed by the Undersecretary for Transportation, shall be composed of the Land Transportation Office (LTO), Land Transportation Franchising and Regulatory Board (LTFRB), Traffic Engineering Center (TEC) and the Air Transportation Office(ATO). The transportation Planning Service shall provide technical staff support to the Group.
3. The **Communications Group**, which will be headed by the Undersecretary for Communications, shall be composed of the Telecommunications Office (Telof) and the Postal Services Office (PSO). The Communications Planning Service shall provide technical staff support to the Group.
4. The **Project Management Group**, shall be directly supervised bythe **Project Management Committee** to be chaired by the Secretary with the Undersecretary for Transportation and Communications, respectively. The office of the Assistant Secretary for Project Management and Management Information Services shall perform coordination and technical secretariat functions for the Project Management Committee.

An accompanying Department Order shall spell out the organization of the **Project Management Group** including the functions and responsibilities of its elements.

5. The Department's staff and other support functions shall be divided between the Office of the Assistant Secretary for Administrative and Legal Affairs, and the Office of the Assistant Secretary for Finance and Comptrollership, each to be headed by an Assistant Secretary who shall report directly to the Secretary.
6. The Office of the Assistant Secretary of Administrative and Legal Affairs shall be composed of the immediate staff of the Assistant Secretary and the following: (i) Administrative Service; (ii) Legal Service; (iii) Procurement, Supply and Property Mgmt. Service and (iv) the Franchising Review Staff.
7. The Office of the Assistant Secretary for Finance and Comptrollership shall be composed of the immediate staff of the Assistant Secretary and the following Services; (i) Finance and Management Service; and (ii) Comptrollership Service.
8. The investigation security and law enforcement staff, and DOTC action center are hereby merged into one office- ISLES/Action Center – the head of which shall report directly to the Secretary.
9. Membership in the Boards of attached corporations shall not be affected by this Order. Appointment to these Boards shall be made under separate orders as and when necessary.

Any previous Department Order, Special Order or issuance inconsistent herewith are deemed modified, superseded or repealed accordingly.

For immediate compliance.

PETE NICOMEDES PRADO
Acting Secretary

Republic of the Philippines
CONGRESS OF THE PHILIPPINES
Metro Manila

Third Regular Session

Begun and held in Metro Manila on Monday, the twenty-fourth day of July, nineteen hundred and eighty-nine.

[REPUBLIC ACT NO. 6849]

AN ACT PROVIDING FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF PUBLIC TELEPHONES IN EACH AND EVERY MUNICIPALITY IN THE PHILIPPINES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. Title. – This act shall be known as the “Municipal Telephone Act of 1989.”

SECTION 2. Declaration of National Policy. – Recognizing that the benefits of modern communication technology are as important to rural development as they are to urban areas, the State shall pursue and foster, in an orderly, purposive and vigorous manner, the interconnection of all municipalities in the country through the establishment and early realization of a nationwide network of public calling stations.

SECTION 3. Projects Office. – For proposes of administering the provisions of this Act, there is hereby created a Municipal Telephone Projects Office in the Department of Transportation and Communications (DOTC) with the following functions:

(a) Develop, in coordination with all other agencies concerned, a plan for providing public calling stations with technology capable of voice and at a transmission in every municipality and, when feasible, in such barangay not otherwise served by an existing telephone exchange using appropriate technology and for this purpose formulate or cause to be formulated, engineering studies;

(b) Undertake the implementation of the said plans and programs and toward this end, to enter into contracts subject to existing laws and regulations for the procurement of equipment, construction of facilities and the installation of the system;

(c) Arrange for funding from any source, private, government, foreign or domestic, including official development assistance, bilateral and multilateral loans subject to applicable laws and regulations;

(d) Prescribe and ensure compatibility with minimum standards and regulations to assure acceptable standards of construction, maintenance, operation, personnel training, accounting and fiscal practices for the municipal telecommunication operators of public calling stations;

(e) Furnish technical assistance and personnel training programs for the municipal telecommunications operators of public calling stations;

(e) Monitor and evaluate local telecommunications and effect system integration and operations whenever economically and technically feasible.

Provided, however, That the approval of the provincial government of the province where any or all of the functions above mentioned are to be discharged is first secured.

SECTION 4. Management of the Projects Offices. – A projects Director, who shall be a person of integrity, competence and experience in technical fields related to the purposed of this act, shall be appointed by the President of the Philippines upon the recommendation of the Secretary of Transportation and Communications. He shall have the rank, position and emoluments of an undersecretary.

The Projects Director shall have the following powers and duties;

- (a) To execute and administer the plans and projects for the realization of the policy set forth in this Act;
- (b) To direct and supervise the operation and internal administration of the Projects Office and, for this purpose, to delegate some or any of his powers and duties to appropriate subordinate officials;
- (c) Subject to the guidelines and policies established by the Secretary of Transportation and Communications, to appoint and in coordination with the Department of Budget and Management fix the number and compensation of officials and employees of the Projects Office, subject to Civil Service Law;
- (d) To prepare an annual report on the activities of the Project Office on or before the end of the first quarter after the fiscal year completed and to submit a copy thereof to the President of the Philippines and the Congress of the Philippines; and
- (e) To exercise such other powers and duties that are proper or necessary to carry out the purposes of this Act as may be vested in him by the Secretary of Transportation and Communication.

SECTION 5. Rights of First Option. – All domestic telecommunications carriers or utilities existing at the time of the effectivity of this Act, and franchised to service a province or region WHICH shall have been certified by the National Telecommunications Commission (NTC) as rendering satisfactory and competent service in its area of operation, are hereby given, under equal conditions and circumstances, the first option to provide, install and operate public calling stations or telephones in interconnected tot he public switched telephone network or other national transmission facilities. The intention to exercise the optional shall be made specifically in writing to the Projects Office within six (6) months of the effectivity of this Act, and shall indicate the preferred province and the time frame of development. Private operators or franchisees of such public calling stations shall be entitled to the same benefits and privileges enjoyed by those installed operated by Government in so far as tax concessions and/or incentives are concerned.

SECTION 6. Frequency Allocation. – In order to accelerate the implementation of this projects the National Telecommunications Commission (NTC) is authorized to assign or reassign, when necessary, existing radio frequency users currently operating.

SECTION 7. Rates and Mandatory Sharing of Toll Revenue. – The NTC, subject to its standard guidelines and in consultation with the regional development councils concerned, shall fix and equitable, reasonable and uniform rate of charges for every type of call. A rate schedule shall be set for all municipal telephone calls under the following classifications:

- (a) Municipal to International;
- (b) Municipal to Metro Manila, and other domestic long distance calls;
- (c) Municipal to Provincial Capital;
- (d) Municipal to Municipal;
 - (1) of the same province
 - (2) of difference provinces, other than domestic long distance.

In connection with the rates, the National Telecommunications Commission (NTC), in consultation with the toll network operators or interchange carriers and the provincial government concerned, shall authorize and cause the implementation of an equitable toll revenue sharing and collection scheme. The share of the local exchange operators in toll revenues shall be remitted by the interchange carriers to them within ninety days (90) from receipt.

SECTION 8. Timetable of Implementation. – The Projects Office install all public calling stations for provinces and municipalities not covered by private communication utilities under Section 5 hereof, such that each one of the municipalities in the Philippines still unserved by telephone at the effectivity of this Act, shall have at least one (1) public calling station or public telephone by the third year of effectivity of this Act. Where resources permit, the Projects Office shall also extend the services concurrently or subsequently or subsequently to other remote barangays of the country. The public call stations shall be interconnected to the public switched telephone network or other national transmission facilities, subject to the technical interconnection standards prescribed by the NTC.

SECTION 9. Operation by Local Governments. – Provinces and municipalities are hereby authorized to set up, operate and maintain their respective public calling stations or to grant franchise to private entities for the operation and maintenance of telephone systems and/or public calling stations; Provided, That the NTC certifies that the proposed grantee is technically and financially capable of complying with all the requirements of public service.

SECTION 10. Appropriation. – The amount of two hundred million pesos (P200,000,000.00), or so much thereof as may be necessary to implement the provisions of this Act, shall be taken from the appropriations provided under Title I – Telecommunications of Executive Order No. 182. In addition, the sum of three hundred million pesos (P300,000,000.00), or so much thereof in equivalent foreign currencies as may be necessary, shall be source, in their order of preference, from foreign grants, concessional loans, official development assistance, commercial loans, and/or export credits to meet the objective of this Act.

SECTION 11. Official Development Assistance. – The provisions of Executive Order No. 230 of 1986, on the power of the NEDA Board, and the rules and regulations governing the evaluation and authorization for the availment of Official Development Assistance notwithstanding, the municipal

telephone program provided for in this Act shall be eligible for foreign loans and grants without further evaluation by the NEDA Board, subject to Section 21, Article XII of the Constitution.

TRANSITORY PROVISION

SECTION 12. Sunset Clause. – The Project Office shall not have a life exceeding then (10) years from the date of the approval of this Act and may only be extended by the act of Congress. At the option of the provincial government, the systems operating in each province shall be turned over to ti, except those operating under Section 5 thereof.

SECTION 13. Repealing Clause. – All acts or parts of acts inconsistent herewith are repealed or modified accordingly.

SECTION 14. Effectivity. – This act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

APPROVED,

(SGD.) **RAMON V. MITRA**
Speaker of the House of Representatives

(Sgd.) **JOVITO R. SALONGA**
President of the Senate

This Act which is a consolidation of Senate Bill No. 892 and House Bill No. 3452 was finally passed by the Senate and the house of Representatives on December 20, 1989 and December 21, 1989 respectively.

(Sgd.) **QUIRINO D. ABAD SANTOS, JR.**
Secretary of the House of Representatives

(Sgd.) **EDWIN P. ACOBA**
Secretary of the Senate

Approved: February 8, 1990

(Sgd.) **CORAZON C. AQUINO**
President of the Philippines

THE NATIONAL TELECOMMUNICATIONS COMMISSION

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APPENDIX

1.0 SCOPE

Part C describes the organization of the Commission, its functions and the various operating units of the agency. It also discusses briefly the budgetary aspects of the Commission's operation. Relevant basic laws, opinions and DOTC, NTC issuance's of rules are also identified.

2.0 INTRODUCTION

The National Telecommunications Commission (NTC, the Commission) was created pursuant to Executive Order No. 546, promulgated on July 23, 1979. It consolidated the functions formerly assigned to the Board of Communication and the Telecommunications Control Bureau, which were abolished by the same order. The latter two bodies had

existed since 1972 and 1974 respectively. Prior to these dates, the Commission's functions were assigned to the Public Service Commission and various Radio Control entities, stretching back to the 1920's.

3.0 COMMISSION FUNCTIONS

The Commission's supervisory, regulatory and control functions cover three broad areas; telecommunications, broadcast undertakings and the radio spectrum. E.O. 546 has established the following functions:

3.1 Telecommunications

- a) The Commission issues certificates of public convenience and necessity (CPCN's) for the installation, operation and maintenance of communications facilities and services, radio communications systems, telephone or telegraph systems, including areas of operation.
- b) The Commission may establish areas of operation for duly franchised carriers and determine rates of services offered by such operators (except where such rates are established by international bodies recognized by the Philippine government as the prior arbiter of such rates).
- c) The Commission may establish and enforce rules, regulations and standards with respect to any CPCN" granted by the Commission

3.2 Broadcast Undertakings

- a) The Commission grants permits for the use of radio frequencies for radio and television stations, and undertakes the registration of transmitters;
- b) The Commission regulates the ownership and operation of radio and TV stations;
- c) The Commission also supervises and inspects the operation of radio and television stations, including auxiliary stations;
- d) The Commission and DOTC have executed a memorandum of agreement with the Kapisanan Ng Mga Brodkaster sa Pilipinas (KBP), under which the KBP acts as the arbiter of broadcast quality among its members, by enforcing adherence to the KBP radio and television codes. The MOU is included in Appendix I.

3.3 The Radio Spectrum

- a) The Commission grants permits for the use of radio frequencies for wireless telephone and telegraph systems and radio communications systems, including amateur radio stations.
- b) The Commission also sub-allocates frequencies within bands allocated by the International Telecommunications Union (ITU) to specified services.
- c) The Commission issues licenses to radio operators, including amateur radio operators.

3.4 General Powers

E.O. 546 also empowers the Commission to promulgate such rules and regulations as public interest may require, to encourage more effective use of communications and

broadcasting facilities, and to maintain effective competition among private entities.

The Commission is also required to coordinate with government agencies and other entities concerned with telecommunications, with the aim of improving service in the country.

4.0 COMMISSION STRUCTURE

As stated in E.O. 546, the Commission comprises the Commissioner and two deputy commissioners, preferably one of whom shall be a lawyer and another an economist. According to the E.O., the commissioners shall be of unquestioned integrity, of proven competence, and recognized as experts in their fields, related the law, the commissioner alone may decide cases, since the Commission is constituted as a non-collegial body.

At the present time, in addition to their quasi-judicial duties, the deputy Commissioners may assume the task of managing some operational departments of the agency. The division of responsibility is determined by the Commissioner, who takes into account the expertise of the respective deputies.

The Commission determines its organizational structure as approved by the Department of Transportation and Communications (the Department, DOTC) and other authorities concerned with government organization, including the Department of Budget and management.

The Commission is an attached agency of the Department, and as such is subject to administration and supervision by the Department. With respect to the exercise of its quasi-judicial functions however, the NTC's decisions are appealable only to the Supreme Court.

5.0 OPERATING DEPARTMENTS

5.1 General

The Commission comprises a central office located in Metro Manila, and thirteen regional offices located throughout the country. Five operating Departments are located at the central office, namely; Administration & Finance, Legal, Telecommunications Planning & Radio Regulation & Licensing. Each department is headed by a director, in addition, reporting directly to the office of the Commissioner, there is the Broadcast Services Division. The location of the Regional Offices reporting to the Commissioner is shown in Appendix I.

5.2 Office of the Commissioner

The Commissioner is responsible for the adoption and promulgation of guideline, rules and regulations necessary to carry out the Commission's regulatory and quasi-judicial functions. The Commissioner is also responsible for the implementation of government policies and objectives, and exercising supervision and control over the Commission's organizational units and regional offices. The units under the direct supervision of the Commissioner's office are as follows:

(a) Commission Secretariat

Dockets all petitions/applications for CPCN's, authorizations, rate revisions and other telecommunications applications requiring NTC approval; records and reports on all NTC proceedings, prepares and serves summons, compiles orders, rulings and decisions, provides secretarial services to the Commission and administers oaths and Necessity. It is also the custodian of all case records, proceedings, and other relevant Commission documents.

(b) International Affairs Coordinating Staff

Monitors, implements and coordinates the Commission's international commitments to and dealings with the ITU & other foreign bodies/administrations; coordinates the memberships of delegations; preparation of position papers for international conferences or meetings; performs protocol functions for telecommunications conferences/meetings hosted by the Commission and maintains liaison with the Ministry of Foreign Affairs & Foreign embassies or consulate offices in the Philippines.

The Commission Public Information Office is also part of this department.

5.3 Legal Department

The Legal Department is responsible for supporting the quasi-judicial functions of the Commission by providing legal advice or assistance to the Commission; provides support to the Commission's conduct of hearings and the adjudication of authorization and administrative applications for CPCN, rate determinations, approval of agreements and contracts, etc. Prepares drafts of legal assistance on legislative, executive and judicial issues arising from the commission's functions.

The legal department supervises the following:

(a) Adjudicative Division

Holds pre-hearing conferences with parties and counsel for stipulation of facts for the speedy disposition of cases; conducts hearings on application for CPCN for the operation of communications utilities and services; prepares drafts of orders and decisions; drafts rules, standards, guidelines.

(b) Administrative Litigation Division

Holds pre-hearing conferences on violations and infractions of public service and

telecommunications laws, rules and regulations; prepares briefs, orders and decisions in the investigations. Prosecutes personnel for alleged violations of civil service laws, rules and regulations.

5.4 Administrative & Finance Dept.

The Administrative & Finance Department is responsible for undertaking activities relative to personnel, operational budgeting, accounting, management improvement, financial reporting, auditing, general services and other related support services, and exercise supervision over the following divisions:

(a) Personnel Division

Attends to personnel selection and placement, classification and pay, career and employees development, employee relations and welfare services, appointments, promotions, transfers, resignations or retirements, attendance and maintenance of the agency's training program.

(b) Financial & Mgmt. Division

Responsible for budget preparation, execution, control and reporting, preparing financial work plans, attending to the obligation of funds and the recording and accounting of disbursements and collections, as well as auditing and management improvement.

(c) General Services Division

Attends to record and supply management functions, financial disbursement and collections procurements, security, janitorial, messengerial, vehicle maintenance and general utility services.

5.5 Common Carrier Authorization Dept.

The Common Carrier Authorization Dept. (CCAD) is responsible for the development, formulation and implementation of policies

programs and operational standards relating to the regulation and authorization of domestic and international telecommunications carriers. It also evaluates the technical, financial and economic viability of applications for the operation, expansion, modernization of telecommunications systems, and advises the Commission regarding related activities such as rate. Determination, funding requirements appraisals etc. the following divisions are supervised:

(a) Domestic and International Carrier Services Division

Develops, formulates and implements policies, programs and operational standards for the regulation and authorization of domestic and international common carriers, evaluates applications for authorization to operate domestic and international public radio communications services, conducts staff inspections for physical appraisal and valuation of facilities and rate determination; surveys proposed service areas, assists in the adjudication of cases and provide advisory/consultative services affecting common carrier authorization and operation.

(b) Wire and Special Public Utilities Services Division

Develops, formulates and implements policies programs and operational standards for the regulation and authorization of radio and tv broadcasting and translator systems, paging, telehone, toll and submarine cable services/system, space and satellite communications systems, advises on applications for the operation of such systems, conducts staff inspections thereon, assists in the adjudication of cases and provides consultative technical services.

(c) Rates Regulation Division

Formulates criteria and standards for the determination and regulation of rates, evaluates applications for rates to be charged by common

Carriers conduct studies on rate structures, uniform systems of accounts; conduct economic research, compile financial statistics and monitors and compile annual reports of the carriers.

5.6 Telecommunications Planning and Development Dept.

The Department is responsible for planning, programming and project development as well as the radio frequency spectrum management program; also responsible for the standardization of telecommunications equipment and facilities. The following divisions comprise the Department.

(a) Planning and Programming Division

Undertakes planning and programming functions regarding the development of telecommunications; formulation of standards, conducting feasibility studies regarding the economic and financial viability of common carriers; operates and maintains electronic data processing machines for the use of the Commission.

(b) Frequency Management Division

Conducts ongoing study of frequency allocations from the ITU and its sub-allocations to meet the local needs of the telecommunications industry and radio communications users; coordinates frequency and call sign assignment, prepares and submits registration reports and notices to the ITU of assigned frequencies and call signs and the technical particulars of local stations keeps and maintains the local frequency sub-allocations table and conducts a continuing study for the development of a spectrum management program.

Note: Pursuant to NTC Office Order No. 1-1-92, this Division was placed under the office of the Commissioner, although

administratively supervised by the Head of RRLD.

(c) Equipment Standard Division

Responsible for establishing standards for telecommunications equipment design and performance, system installation and type acceptance and type approval of equipment, conduct continuing technical research on the development of radio communications including wave propagation, satellite and space communications.

5.7 Broadcast Division

The Broadcast Division undertakes functions relating to the issuance of Certificates of Public Convenience and Licenses for Radio and Television Broadcasting Stations as well as the monitoring and enforcement to ascertain compliance with laws and the terms and conditions of Commission decisions and orders.

Note: Originally a part of RRLD, the Broadcast organization has been elevated to Division status, per DBM approval in 1988.

(a) Program & Standard Section

This Section implements guidelines and directions enacted and instituted by the Commission for purposes of regulating radio and television broadcasting programs; engages in program development, market viability and such other related studies.

(b) Technical Section

The Technical Section implements guidelines and directions of the Commission related to the technical operations of radio and television broadcasting stations. It also undertakes developmental and improvement studies, recommends standards and rule setting, and provides services to enhance technical

Capabilities of radio and television broadcasting stations.

5.8 Radio Regulation/Licensing Dept.

The Radio Regulation and Licensing Dept. undertakes functions relative to the registration of radio transmitter/transceiver equipment, licensing of all radio stations, issuance of Safety Radiotelegraphy/Radiotelephony Certificates for ships, recognition of radio training schools, the following divisions comprise the Department:

(a) Fixed Land Mobile Services Division

Develops, formulates and implements policy guidelines for the licensing of all radio stations within the Fixed Land Mobile Services; process applications for permits and licenses thereof; assigns call-signs and frequencies in coordination with the Frequency Management Division; maintains an up-to-date list of stations and registered radio communications equipment; provides advisory or consultative technical services for radio station licensing.

(b) Safety and Special Services Division

Develops, formulates and implements policy guidelines for the licensing of radio stations within the maritime, aeronautical, amateur and satellite services, including paging systems; acts on applications for permits and licenses thereof, assigns call-signs and frequencies in coordination with the Frequency Management Division; maintains an up-to-date list of stations and registered and provides advisory or consultative technical services for radio station licensing.

(c) Radio Operators and Training School Division

Develops, formulates and implements policy guidelines for the examination and licensing of radio operators and the recognition and the operational standards for radio training schools; acts on all applications for radio operators

examinations and licensing, as well as for stations licenses and certificates of recognition for radio training schools; conducts periodic evaluation for operation standards for training schools and keep and maintain an up-to-date list of licensed radio operators and recognized radio training schools.

(d) Frequency Management Division

(Considering the need to enhance the efficient licensing processes of this department whereby assignment of frequencies and call signs are both major function of Fixed and Land Mobile Division and Frequency Management Division. The Division is placed under administrative supervision of Head, RRLD pursuant to NTC Office Order No. 1-1-92). For its functions and responsibilities, refer to # 5.6, Part C Telecommunications Planning and Development Department.

5.9 Regional Offices

Office of the Regional Director

The regional Directors have been assigned the responsibility for certain NTC licensing, monitoring and enforcement functions. They maintain ongoing liaison amongst the regional officials they represent the Commission in meetings and maintain rapport with the people of the regions. The following divisions comprise each regional office.

(a) Administrative and Financial Division

Headed by the Administrative Officer, it is responsible for handling the budget and accounting matters, personnel and general administrative services.

(b) Technical Operations and Enforcement Division

Headed by an Engineer, it is responsible for assigned licensing, planning and enforcement function of the Commission.

6.0 BUDGET ASPECTS

The Commission's annual budget is appropriated under that of the Dept. of Transportation and Communications, to which it is an attached agency. Fees collected by the Commission accrue to the government's general revenue fund, and cannot be used for the Commission's operation. However, revenue from fines and penalties collected may be placed in a special Revolving Fund, to a maximum defined annually (currently P4.0 million), in accordance with a special provision of the General Appropriations Act. Such revenues are not, however, available for the use of the Commission unless actually appropriated as a part of the annual budget. The revenue generated by the Commission is larger than its annual expenditures. For 1991, the Commission generated P73.5 million, as against expenditures of some P32.5 million.

7.0 REFERENCE DOCUMENTS

This section provides a brief summary of relevant laws, rules and regulations of the NTC. The full text, or relevant excerpts thereof will be found in the Appendix to this Part.

7.1 Relevant Laws and Statutes

- (a) **C.A. 146, as amended**, otherwise known as the Public Service Act, was enacted in 1936. And still stands as the prime legislative authority governing the Commission's activities.
- (b) **Act 3846 as amended**, is otherwise known as the Radio Laws of the Philippines. Entitled "An Act Providing for the Regulation of Public and Radio Commissions in the Philippines and for other Purposes" it is the controlling law on the regulation of possession, construction and operation of radio stations throughout the Philippines.
- (c) **Act 3396 as amended**, entitled "An Act to Make the Installations of Radio Apparatus Obligatory for Ships of

Philippine Registry", governs the regulation of maritime radio stations.

- (d) **Executive Order 546** – This executive issuance dated July 23, 1979, created the Ministry of Transportation and Communications, and other agencies under the Ministry, including NTC. It also describes the Organization of each agency and defines its functions and responsibilities.
- (e) **E.O. 125-A** – Issued in April 1987, this document re-organized the ministry of Transportation and Communications into Department and defined further its functions and responsibilities. It also brought the NTC into the structure as an attached agency.
- (f) **P.D. 576-A** – issued in 1974, it provided the basis for regulating radio and TV broadcast services in the Philippines. It also brought the termination of all franchises, grants, licenses, permits, certificates or other forms of authority, effective Dec. 31, 1981, and conferred upon the Commission and the DOTC Secretary, the power to grant to radio or TV broadcast stations, the authority to operate, subject to appeal to the office of the President, any disagreement in connection with a decision rendered by the former.
- (g) **E.O. 205** – issued in June, 1987, it placed the regulation of CATV systems under the supervision and regulation of the Commission, through the issuance of a Certificate of Authority (CA).
- (h) **E.O. 196** – issued in July, 1987, it place Philcomsat, the international satellite carriers carrier under the jurisdiction of the Commission.

7.2 Selected Opinions Affecting NTC Jurisdiction

- a) **Opinion No. 6S.1984** – confirms the view that the NTC is not a collegial body.

b) Dept. of Justice Opinion No. 98S,1991

This document provides a legal opinion on the power of the Commission to issue permits to radio and TV stations with no legislative franchise. It addresses the relationship between P.D. No. 546, and holds that these laws have effectively modified the franchising and licensing arrangements for radio and TV broadcast stations as provided in Act 3846 as amended.

7.3 Selected NTC Circulars

a) Customer-Provided Equipment

i) NTC Memorandum Circular 1-04-88

This circular provides the rules for the use of customer provided equipment; i.e., subscribers may purchase and install their own telephone apparatus on their premises, rather than acquire it from the serving telephone company.

b) Standards

i) NTC Memorandum Circular 2-5-88

This circular contains the rules and regulations governing the manufacture, sale and service of radiocommunication equipment.

ii) NTC Memorandum Circular 9-8-91

This circular contains guideline for the sale, purchase and importation of various radio equipment used in private networks.

iii) NTC Memorandum Circular 10-16-90

This circular sets out the technical standards to be met by a carrier network systems, in order to provide satisfactory service.

iv) NTC Memorandum Circular 10-17-90

This document provides the rules and standards set on the quality of service to be met by the carriers, and how they will be measured and monitored by the Commission.

c) Procedures

i) NTC Memorandum Circular 9-14-90

This document describes the requirements for applicants seeking Provisional Authority.

ii) NTC Memorandum Circular 6-3-91

This circular proscribes the procedure to be followed in complying with jurisdictional requirements of publication and notice to affected parties. It allows counsel for the parties to satisfy themselves as to such compliance at the initial hearing by inspecting relevant documents, and thereby avoid lengthy oral presentations.

d) Development

i) NTC Memorandum Circular 7-13-90

This circular contains the rules and regulations governing the interconnection of Local telephone exchanges and public calling offices with the nationwide public network, including revenue sharing arrangements.

e) Radio Spectrum

i) NTC Memorandum Circular 2-4-90

This circular sets out the guidelines on Radio Frequency Assignment by the Commission.

ii) NTC Office Order 19-8-91

This order effects the decentralization of domestic maritime licensing functions of the

safety and special radio services to the Commission's regional offices.

iii) NTC Memorandum Circular 10-8-91

This Circular contains the criteria for the granting of commercial radio stations licenses used by various enterprises for private networks.

iv) NTC Memorandum Circular 11-8-91

This Circular describes how the Commission will implement the decisions of the 1987 World Administrative Radio Conference (WARC) for mobile radio services in the HF band.

Appendix C-1
NTC Rules of Procedure

REFERENCE DOCUMENTS:

INTRODUCTION

This section of the manual contains documents considered to be of interest to those involved or interested in the regulatory processes of the Commission. In some cases, the documents have been excerpted in order to keep the text to a minimum. Wherever possible, computer files from the Commission itself have been source of the text, but no guarantees of accuracy can be made for these copies. Parties wishing to be certain of the text should avail of the formal copy of the document from the NTC or source organization.

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NTC REGIONAL OFFICES

RO – 1	NTC La Union Reg. Office California Ave., San Francisco, La Union Tel. Nos. 41-29-53
RO – 11	NTC Tuguegarao Reg. Office Carig, Tuguegarao, Cagayan Valley Tel. Nos. 446-10-60
RO – 111	Bo. Maimpis, Reg. Govt. Center San Fernanado, Pampanga tel. Nos. 61-37-43
RO – IV	Baex, Bulbok, Batangas City Tel. Nos. 724-15-95
RO – V	NTC Legaspi Gov. Center Rawis, Legaspi City Tel. Nos. 34-73
RO – VI	NTC Iloilo Regional Office Balantang, Jaro, Iloilo City Tel. Nos. 78-101
RO – V11	NTC Cebu Reg. Office Subangdaku, Mandawe City Tel. Nos. 828-74
RO – VIII	Army Road, Tacloban city Tel. Nos. 321-23-14
RO- IX	NTC Zamboanga Reg. Office Cabatanga, Zamboanga City Tel. Nos. 33-86
RO – X	NTC Cagayan de Oro City Tel. Nos. 32-85
RO - X1	NTC Davao Reg. Office R. Quimpo blvd. Adj. Casa Mercado, Ecoland, Matina Davao City Tel. Nos. 636-1-19/638-42
RO – X11	NTC Cotabato Reg. Office ORC Comp. Cotabato City CTV – 12 Tel. Nos. 21-10-17

Note: (Excerpts only – Sections which apply to telecommunications)

COMMONWEALTH ACT NO. 146, as amended

AN ACT TO REORGANIZE THE PUBLIC SERVICE COMMISSION, PRESCRIBE ITS POWERS AND DUTIES, DEFINE AND REGULATE PUBLIC SERVICES, PROIVDE AND FIX THE RATES AND QUOTA OF EXPENSES TO BE PAID BY THE SAME, AND FOR OTHER PURPOSES.”

Be it enacted by the National Assembly of the Philippines

CHAPTER I. – Organization

SECTION 1 – 12

CHAPTER 11 – Jurisdiction, Powers, and Duties of the Commission

SECTION 13. (a) The Commission shall have jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of public force: **Provided, That public services owned or operated by government entities or government owned or controlled corporations shall be regulated by the commission in the same way as privately-owned public services, but certificates of public convenience or certificates of public convenience and necessity shall not be required of such entities or corporation:....**

(b) The term "public service" includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier, railroad, street railway, traction railway..., wire or wireless communications system, wire or wireless broadcasting stations and other similar public services:...

(c) The word "person" includes every individual, co-partnership, joint-stock company or corporation, whether domestic or foreign, their lessees, trustees, or receivers, as well as any municipality, province, city, government-owned or controlled corporation, or agency of the Government of the Philippines, and whatever other persons or entities that may own or possess or operate public services.

SECTION 14. The following are exempted from the provisions of the preceding section:

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(d) Radio companies **except with respect to the fixing of rates.**

(e) Public services owned or operated by any instrumentality of the National Government or by any government-owned or controlled corporation, except with respect to the fixing of rates.

SECTION 15. With the exception of those enumerated in the preceding section, no public service shall operate in the Philippines without possessing a valid and subsisting certificate from the Public Service Commission known as "certificate of public convenience," or "certificate of public convenience and necessity," as the case may be, to the effect that the operation of said service and the authorization to do business will promote the public interests in a proper and suitable manner.

The Commission may prescribe as a condition for the issuance of the certificate provided in the preceding paragraph that the service can be acquired by the Commonwealth of the Philippines or any instrumentality thereof upon payment of the cost price of its useful equipment, less reasonable depreciation; and likewise, that the certificate shall be valid only for a definite period of time; and that the violation of any of these conditions shall produce the immediate cancellation of the certificate without the necessity of any express action on the part of the Commission.

In estimating the depreciation, the effect of the use of the equipment, its actual condition, the age of the model, or other circumstances affecting its value in the market shall be taken into consideration.

The foregoing is likewise applicable to any extension or amendment of certificates actually in force and to those which may hereafter be issued, to permit to modify itineraries and time schedules of public services, and to authorizations to renew and increase equipment and properties.

SECTION 16. Proceedings of the Commission, upon notice and hearing. - The Commission shall have the power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary :

(a) To issue certificates which shall be known as **Certificates of Public Convenience**, authorizing the operation of public service within the Philippines whenever the Commission finds that the operation of the public service proposed and the authorization to do business will promote the public interest in a proper and suitable manner. Provided, That thereafter, certificates of public convenience and certificates of public convenience and necessity will be granted only to citizens of the Philippines or of the United States or to corporations, co-partnerships, associations or joint-stock companies constituted and organized under the laws of the Philippines; Provided, That sixty per centum of the stock or paid-up capital of any such corporations, co-partnership, association or joint-stock company must belong entirely to citizens of

the Philippines or of the United States: Provided, further, That no such certificates shall be issued for a period of more than fifty years.

(b) To approve, subject to constitutional limitations any franchise or privilege granted under the provisions of Act No. Six Hundred and Sixty-seven, as amended by Act No. One Thousand and twenty-two, by any political subdivision of the Philippines when, in the judgment of the Commission, shall in so approving impose such conditions as to construction, equipment, maintenance, service, or operation as the public interests and convenience and necessity when such is required or provided by any law or franchise.

(c) To fix and determine individual or joint rates, tolls, charges, classifications, or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed observed and followed thereafter by any public service: Provided, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days, thereafter, upon publication and notice to the concerns operating in the territory affected: **Provided, further,** That in case the public service equipment of an operator is used principally or secondarily for the promotion of a private business, the net profits of said private business shall be considered in relation with the public service of such operator for the purpose of fixing the rates.

(d) To fix just and reasonable standards, classifications, regulations, practices, measurement, or service to be furnished, imposed, observed, and followed thereafter by any public service.

(e) To ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of the product or service rendered by any public service, and to prescribe reasonable regulations for the examination and test of such product or service and for the measurement thereof.

(f) To establish reasonable rules, regulations, instructions, specifications, and standards, to secure the accuracy of all meters and appliances for measurements.

(g) To compel any public service to furnish safe, adequate, and proper service as regards the manner of furnishing the same as well as the maintenance of the necessary material and equipment.

(h) To require any public service to establish, construct, maintain, and operate any reasonable extension of its existing facilities, where in the judgment of said Commission, such extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same and when the financial condition of the said public service reasonably warrants the original expenditure required in making and operating such extension.

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(l) To fix and determine proper and adequate rates of depreciation of the property of any public service which will be observed in a proper and adequate depreciation account to be carried for the protection of stockholders, bondholders or creditors in accordance with such rules, regulations, and form of account as the Commission may prescribe. Said rates shall be sufficient to provide the amounts

required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry. Each public service shall conform its depreciation accounts to the rates so determined and fixed, and shall set aside the moneys so provided for out of its earnings and carry the same in a depreciation fund. The income from investments of money in such fund shall likewise be carried in such fund. This fund shall not be expended otherwise than for depreciation, improvements, new construction, extensions or conditions to the property of such public service.

(m) To amend, modify or revoke at any time certificate issued under the provisions of this Act, whenever the facts and circumstances on the strength of which said certificate was issued have been misrepresented or materially changed.

(n) To suspend or revoke any certificate issued under the provisions of this Act whenever the holder thereof has violated or willfully and contumaciously refused to comply with any order rule or regulation of the Commission or any provision of this Act: **Provided**, That the Commission, for good cause, may prior to the hearing suspend for a period not to exceed thirty days any certificate or the exercise of any right or authority issued or granted under this Act by order of the Commission, whenever such step shall in the judgment of the Commission be necessary to avoid serious and irreparable damage or inconvenience to the public or to private interests.

SECTION 17. Proceedings of Commission without previous hearing. - The Commission shall have power without previous hearing, subject to established limitations and exception and saving provisions to the contrary:

(a) To investigate, upon its own initiative, or upon complaint in writing, any matter concerning any public service as regards matters under its jurisdiction; to require any public service to furnish safe, adequate, and proper service as the public interest may require and warrant; to enforce compliance with any standard, rule, regulation, order or other requirement of this Act or of the Commission, and to prohibit or prevent any public service as herein defined from operating without having first secured a certificate of public convenience or public necessity and convenience, as the case may be and require existing public services to pay the fees provided for in this Act for the issuance of the proper certificate of public convenience or certificate of public necessity and convenience, as the case may be, under the penalty, in the discretion by the Commission, of the revocation and cancellation of any acquired rights.

(b) To require any public service to pay the actual expenses incurred by the Commission in any investigation if it shall be found in the same that any rate, tool, charge, schedule, regulation, practice, act or service thereof is in violation of any provision of this Act or any certificate, order, rule, regulation or requirement issued or established by the Commission. The Commission may also assess against any public service costs not to exceed twenty-five pesos with reference to such investigation.

(c) From time to time appraise and value the property of any public service, whenever in the judgment of the Commission it shall be necessary so to do, for the purpose of carrying out any of the provisions of this Act, and in making such valuation the Commission may have access to and use any books, documents, or records in the possession of any department, bureau, office, or board of the government of the Philippines or any political subdivision thereof.

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(f) To require any public service to keep its books, records, and accounts so as to afford an

intelligent understanding of the conduct of its business and to that end to require every such public service of the same class to adopt a uniform system of accounting. Such system conform to any system approved and confirmed by the Auditor General.

(h) To require any public service to furnish annual reports of finances and operations. Such reports shall set forth in detail the capital stock issued, the amounts of said capital stock paid up and the form of payment thereof; the dividends paid, the surplus, if any and the number of stockholders, the consolidated and pending obligations and the interest paid thereon; the cost and value of the property of the operator; concessions or franchises and equipment; the number of employees and salaries paid to each class; the accidents to passengers, employees, and other person, and the causes thereof; the annual expenditures on improvements; the manner of their investment and nature of such improvements; the receipts and profits in each of the branches of the business and of whatever source; the operating and other expenses; the balance of profits and losses; and a complete statement of the annual financial operations of the operator, including an annual balance sheet. Such reports shall also contain any information which the Commission may require concerning freight and passenger rates, or agreements, compromises or contracts affecting the same. Said reports shall cover a period of twelve months, ending on December thirty-first of each year, and shall be sworn to by the officer or functionary of the public service authorized therefor. The Commission shall also have power to require from time to time special reports containing such information as above provided for or on other matters as the Commission may deem necessary or advisable.

(i) To require every public service to file with the Commission a statement in writing, verified by the oaths of the owner or the president and the secretary thereof, if a corporation, setting forth the name, title of office or position, and post-office address, and the authority, power and duties of every officer, member of the board of directors, trustees executive committee, superintendent, chief or head of construction and operation thereof, in such form as to disclose the source and origin of each administrative act, rule, decision, order or other action of the operator of such public service; and, within ten days after any change is made in the title of, or authority, powers or duties appertaining to any such office or position, or the person holding the same, filed with the Commission a like statement, verified in like manner, setting forth such change.

(j) To require any public service to comply with the laws of the Philippines and with any provincial resolution or municipal ordinance relating thereto and to conform to the duties imposed upon it thereby or by the provisions of its own character, whether obtained under any general or special law of the Philippines.

(k) To investigate any or all accidents that may occur on the property of any public service or directly or indirectly arising from or connected with its maintenance or operation in the Philippines; to require any public service to give the Commission immediate and effective notice of all any such accidents, and to make such order or recommendation with respect thereto as the public interest may warrant or require.

(l) To require every public service s herein defined to file within complete schedules of every classification employed and of every individual or joint rate, toll fare or charge made, charged or exacted

by it for any product supplied or service rendered within the Philippines and, in the case of public carriers, to file with it a statement showing the itineraries or routes served as specified in such requirement.

CHAPTER III OPERATORS OF PUBLIC SERVICES REGULATIONS AND PROHIBITIONS

SEC. 18. It shall be unlawful for any individual, co-partnership, association, corporation or joint-stock company, their lessees, trustees or receivers appointed by any court whatsoever, or any municipality, province, or other department of the Government of the Philippines to engage in any public service business without having first secured from the Commission a certificate of public convenience or certificate of public convenience and necessity as provided for in this Act, except grantees of legislative franchises expressly exempting such grantees from the requirement of securing a certificate from this Commission as well as concerns at present existing expressly exempted from the jurisdiction of the Commission, either totally or in part, by the provisions of section thirteen of this Act.

SEC. 19. Unlawful Acts. - It shall be unlawful for any public service:

(a) To provide or maintain any service that is unsafe, improper, or inadequate or withhold or refuse any service which can reasonably be demanded and furnished, as found and determined by the Commission in a final order which shall be conclusive and shall take effect in accordance with this Act, upon appeal of otherwise.

(b) To make or give, directly or indirectly, by itself or through its agents, attorneys or brokers, or any of them, discounts or rebates on authorized rates, or grant credit for the payment of freight charges, or any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic or service, or subject any particular person or corporation or locality or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever; to adopt, maintain, or enforce any regulation, practice or measurement which shall be found or determined by the Commission to be unjust, unreasonable, unduly preferential or unjustly discriminatory in a final order which shall be conclusive and shall take effect in accordance with the provisions of this Act, upon appeal or otherwise.

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SEC. 20. Acts requiring the approval of the Commission. - Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had -

(a) To adopt, establish, fix, impose, maintain, collect or carry into effect any individual or joint rates, commutation, mileage or other special rate, toll, fare, charge, classification or itinerary. The Commission shall approve only those that are just and reasonable and not any that are unjustly discriminatory or unduly preferential, only upon reasonable notice to the public services and other parties concerned, giving them a reasonable opportunity to be heard and the burden of the proof to show that the proposed rates or regulations are just and reasonable shall be upon the public service proposing the same.

(b) To establish, construct, maintain, or operate new units or extend existing facilities or make any other addition to or general extension of the service.

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(e) Hereafter to issue any stock or stock certificates representing an increase of capital; or issue any share of stock without par value; or issue any bonds or other evidence of indebtedness payable in more than one year from the date issuance thereof, provided that it shall be the duty of the Commission, after hearing, to approve any such issue maturing in more than one year from the date thereof, when satisfied that the same is to be made in accordance with law, and the purpose of such issue be approved by the Commission.

(f) To capitalize any franchise in excess of the amount, inclusive of any tax or annual charge, actually paid to the Government of the Philippines or any political subdivision thereof as the consideration of said franchise; capitalize any contract for consolidation, merger or lease, or issue any bonds or other evidence of indebtedness against or as a lien upon any contract for consolidation, merger, or lease: **Provided, however,** that the provisions of this section shall not prevent the issuance of stock, bonds, or other evidence of indebtedness subject to the approval of the Commission by any lawfully merged or consolidated public services not in contravention of the provisions of this section.

(g) To sell, alienate, mortgage, encumber or lease its property, franchises, certificates, privileges, or rights or any part thereof; or merge or consolidate its property, franchises privileges or rights, or any part thereof, with those of any other public service. The approval herein required shall be given, after notice to the public and hearing the persons interested at a public hearing, if it be shown that there are just and reasonable grounds for making the mortgaged or encumbrance, for liabilities of more than one year maturity, or the sale, alienation, lease, merger, or consolidation to be approved, and that the same are not detrimental to the public interest, and in case of a sale, the date on which the same is to be consummated shall be fixed in the order of approval: **Provided, however,** that nothing herein contained shall be construed to prevent the transaction from being negotiated or completed before its approval or to prevent the sale, alienation, or lease by any public service of any of its property in the ordinary course of its business.

(h) To sell or register in its books the transfer or sale of shares of its capital stock, if the result of that sale in itself or in connection with another previous sale, shall be to vest in the transferee more **than forty per centum** of the subscribed capital of said public service. Any transfer made in violation of this provision shall be void and of no effect and shall not be registered in the books of the public service corporation. Nothing herein contained shall be construed to prevent the holding of shares lawfully acquired.

(i) To sell, alienate or in any manner transfer shares of its capital stock to any alien if the result of that sale, alienation, or transfer in itself or in connection with another previous sale shall be the reduction to less than sixty per centum of the capital stock belonging to Philippine citizens. Such sale, alienation or transfer shall be void and of no effect and shall be sufficient cause for ordering the cancellation of the certificate.

(i) To issue, give or tender, directly or indirectly, any free ticket free pass or free or reduced rate of transportation for passengers, except to the following persons: (1) officers, agents, employees, attorneys, physicians and surgeons of said public service, and members of their families; (2) inmates of

hospitals or charity institutions, and persons engaged in charitable work; (3) indigent, destitute, and homeless persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; (4) the necessary caretakers, going and returning, of livestock, poultry, fruit, and other freight under uniform and non-discriminatory regulation; (5) employees of sleeping car corporations, express corporations and telegraph and telephone corporations, railway and marine mail service employees, when traveling in the course of their official duty; (6) post-office inspectors, customs officers and inspectors, and immigration inspectors when engaged in inspection; (7) witnesses attending any legal investigation in which the public service is an interested party; (8) persons injured in accidents or wrecks, and physicians and nurses attending such persons; (9) peace officers and men of regularly constituted fire departments.

(k) Adopt, maintain, or apply practices or measures, rules or regulations to which the public shall be subject in its relations with the public service.

CHAPTER IV PENALTIES FOR VIOLATIONS

SEC. 21. Every public service violating or failing to comply with the terms and conditions of any certificate or any orders, decisions or regulations of the Commission shall be subject to a fine of not exceeding two hundred pesos per day for every day during which such default or violation continues; and the Commission is hereby authorized and empowered to impose such fine, after due notice and hearing.

The fines so imposed shall be paid to the Government of the Philippines through the Commission, and failure to pay the fine in any case within the same specified in the order or decision of the Commission shall be deemed good and sufficient reason for the suspension of the certificate of said public service until payment shall be made. Payment may also be enforced by appropriate action brought in a court of competent jurisdiction. The remedy provided in this section shall not be a bar to, or affect any other remedy provided in this Act but shall be cumulative and additional to such remedy or remedies.

SEC. 22. Observance of the orders, decisions, and regulations of the Commission and of the terms and conditions of any certificate may also be enforced by mandamus or injunction in appropriate cases, or by action to compel the specific performance of the orders, decisions, and regulations so made, or of the duties imposed by law upon such public service: Provided, that the Commission may compromise any case that arise under this Act in such manner and for such amount as it may deem just and reasonable.

SEC. 23. Any public service corporation that shall perform, commit, or do any act or thing herein forbidden or prohibited or shall neglect, fail or omit to do or perform any act or thing herein required to be done or performed, shall be punished by a fine not exceeding twenty-five thousand pesos, or by imprisonment not exceeding five years, or both, in the discretion of the court.

SEC. 24. Any person who shall knowingly and willfully perform, commit, or do, or participate in performing, committing, or doing, or who shall knowingly and willfully cause, participate, or join with others in causing any public service corporation or company to do, perform or commit, or who shall advise, solicit, persuade, or knowingly and willfully instruct, direct, or order any officer, agent, or employee of any public service corporation or company to perform, commit, or do any act or thing forbidden or prohibited by this Act, shall be punished by a fine not exceeding two thousand pesos, or imprisonment not exceeding two years, or both, in the discretion of the court: **Provided, however,** that

for operating a private passenger automobile as a public service without having a certificate of public convenience for the same the offender shall be subject to the penalties provided for in section sixty-seven (j) of Act numbered thirty-nine hundred an ninety-two.

SEC. 25. Any person who shall knowingly and willfully neglect, fail, or omit to do or perform, or who shall knowingly and willfully cause or join or participate with others in causing any public service corporation or company to neglect, fail or omit to do or perform, or who shall advise, solicit, or persuade, or knowingly and willfully instruct, direct, or order any officer, agent, or employee of any public service corporation or company to neglect, fail, or omit to do any act or thing required to be done by this Act, shall be punished by a fine not exceeding two thousand pesos or by imprisonment not exceeding two years, or both, in the discretion of the court.

SEC. 26. Any person who shall destroy, injure, or interfere with any apparatus or appliance owned or operated by or in charge of the Commission or its agents, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand pesos or imprisonment not exceeding six months, or both in the discretion of the court.

Any public service permitting the destruction, injury to, or interference with, any such apparatus or appliances shall forfeit a sum not exceeding four thousand pesos for each offense.

SEC. 27. This Act shall not have the effect to release or waive any right of action by the Commission or by any person for any right, penalty, or forfeiture which may have arisen or which may arise, under any of the laws of the Philippines, and any penalty or forfeiture enforceable under this Act shall not be a bar to or affect a recovery for a right, or affect or bar any criminal proceedings against any public service or person or persons operating such public services, its officers, directors, agents, or employees.

SEC. 28. Violations of the orders, decisions, and regulations of the Commission and of the terms and conditions of any certificate issued by the Commission shall prescribe after sixty days, and violations of the provisions of this Act shall prescribe after one hundred and eighty days.

CHAPTER V PROCEDURE AND REVIEW

SEC. 29. All hearings and investigations before the Commission shall be governed by rules adopted by the Commission, and in the conduct thereof the Commission shall not be bound by the technical rules of legal evidence: Provided, That the Public Service Commissioner or associate commissioners may summarily punish for contempt by a fine not exceeding two hundred pesos or by imprisonment not exceeding ten days, or both, any person guilty of misconduct in the presence of the Commissioner or associate commissioners or so near the same as to interrupt the hearing or session or any proceeding before them, including cases in which a person present at a hearing, session, or investigation held by either of the commissioners refuses to be sworn as a witness or to answer as such when lawfully required to do so. To enforce the provisions of this section, the Commission may, if necessary, request the assistance of the municipal police for the execution of any order made for said purpose.

SEC. 30. (a) The Commission may issue subpoenas and subpoenas duces tecum, for witnesses in any matter or inquiry pending before the Commission and require the production of all books, papers, tariffs, contracts, agreements, and all other documents, which the Commission may deem necessary in

any proceeding. such process shall be issued under the seal of the Commission, signed by one of the Commissioners or by the secretary, and may be served by any person of full age, or by registered mail. In case of disobedience to such subpoena, the Commission may invoke the said of the Supreme Court or of any Court of First Instance of the Philippines in requiring the attendance and testimony of witness and the production of books, papers, and documents under the provisions of this chapter, and the Supreme Court, or any Court of First Instance of the Philippines within the jurisdiction of which such inquiry is carried on, may in case of contumacy or refusal to obey a subpoena, issue to any public service subject to the provisions of this Act, or to any person, an order requiring such public service or other person to appear before the Commission and produce and papers if so ordered and give evidence touching the matter; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Any person who shall neglect or refuse to answer any lawful inquiry or produce the Commission books, paper, tariffs, contracts, agreements, and documents or other things called for by said Commission, if in his power to do so, in obedience to the subpoena or lawful inquiry of the Commission, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine not exceeding five thousand pesos or by imprisonment not exceeding one year, or both, in the discretion of the court.

(c) The Commissioner and associate commissioners, the chiefs of divisions, the attorneys of the Commission, and the deputy secretaries shall have the power to administer oaths in all matters under the jurisdiction of the Commission.

(d) Any person who shall testify falsely or make any false affidavit or oath before the Commission or before any of its members shall be guilty of perjury, and upon conviction thereof in a court of competent jurisdiction, shall be punished as provided by law.

(e) Witnesses appearing before the Commission in obedience to subpoena or subpoena duces tecum, shall be entitled to receive the same fees and mileage allowance as witnesses attending Courts of First Instance in civil cases.

(f) Any person who shall obstruct the Commission or either of the Commissioners while engaged in the discharge of Official duties, or who shall conduct himself in a rude, disrespectful or disorderly manner before the Commission or either of the Commissioners, while engaged in the discharge of official duties, or shall orally or in writing be disrespectful to, offend or insult either of the Commissioners on occasion or by reason of the performance of official duties, upon conviction thereof by a court of competent jurisdiction, shall be punished for each offense by a fine not exceeding one thousand pesos, or by imprisonment not exceeding six months, or both, in the discretion of the court.

SEC. 31. No person shall be excused from testifying or from producing any book, document, or paper in any investigation or inquiry by or upon the hearing before the Commission, when ordered so to do by said Commission, except when the testimony or evidence required of him may tend to incriminate him. Without the consent of the interested party no member or employee of the Commission shall be compelled or permitted to give testimony in any civil suit to which the Commission is not a party, with regard to secrets obtained by him in the discharge of his official duty.

SEC. 32. The Commission may, in any investigation or hearing, by its order in writing cause the deposition of witnesses residing within or without the Philippines to be taken in the manner prescribed

by the **Rules of Court**. Where witnesses reside in places distant from Manila and it would be **inconvenient and expensive for them to appear personally before the Commission**. The Commission may, by proper order, commission any clerk of the Court of First Instance, municipal judge or justice of the peace of the Philippines to take the deposition of witnesses in any case pending before the Commission. It shall be the duty of **the official so commissioned**, to the **depositions taken** and forward them as soon as possible to the Commission. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken. in case there are no stenographers available, the testimony shall be taken in long hand by such person as the clerk of court, **the municipal judge** or justice of the peace may designate. The Commission may also commission a **notary public** to take the depositions in the same manner herein provided.

The Commission may also, by proper order, authorize any of the attorneys of the legal division or division chiefs of the Commission, if they be lawyers, to hear and investigate any case filed, with the Commission and in connection therewith to receive such evidence as may be material thereto. At the conclusion of the hearing or investigation, the attorney or division chief so authorized shall submit the evidence received by him to the Commission to enable the latter to render its decision.

SEC. 33. Every order made by the Commission shall be served upon the person or public service affected thereby, within ten days from the time said order is filed by personal delivery or by ordinary mail, upon the attorney of record, or in case there be no attorney of record, upon the party interested; and in case such certified copy is sent by registered mail, the registry mail receipt shall be prima facie evidence of the receipt of such order by the public service in due course of mail. All orders of the Commission to continue an existing service or prescribing rates to be charged shall be immediately operative; all other orders shall become effective upon the dates specified thereon: Provided, however, that orders, resolutions or decisions in converted matters and not referring to the continuance of an existing service or prescribing rates to be charged shall not be effective unless otherwise provided by the Commission, and shall take effect thirty days after notice to the parties.

SEC. 34. Any interested party may request the reconsideration of any order, ruling, or decision of the Commission by means of a petition filed not later than fifteen days after the date of the notice of the order, ruling, or decision in question. The grounds on which the request for reconsideration is based shall be clearly and specifically stated in the petition. Copies of said petition shall be served on all parties interested in the matter. It shall be the duty of the Commission to call a hearing on said petition immediately, with no parties, and hearing to decide the same promptly, either denying the petition or revoking or modifying the order, ruling or decision under consideration.

SEC. 35. The Supreme Court is hereby given jurisdiction to review any order, ruling, or decision of the Commission and to modify or set aside such order, ruling, or decision when it clearly appears that there was no evidence before the Commission to support reasonably such order, ruling, or decision, or that the same is contrary to law, or that it was without the jurisdiction of the Commission. The evidence presented to the Commission, together with the record of the proceedings before the Commission, shall be certified by the secretary of the Commission to the Supreme Court. Any order, ruling, or decision of the Commission may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by rules of the Supreme Court.

SEC. 36. Any other, ruling, or decision of the Commission may be reviewed on the application of any person or public service affected thereby, by certiorari in appropriate cases, or by petition, to be known as petition for review, which shall be filed within thirty days from the notification of such order, ruling or decision, is filed in accordance with the preceding section and the same is denied it shall be filed within fifteen days after notice of the order denying reconsideration. Said petition shall be placed on file in the office of the Clerk of the Supreme Court who shall furnish copies thereof to the Secretary of the Commission and other parties interested.

SEC. 37. The institution of a writ of certiorari or other special remedies in the Supreme Court shall in no case supersede or stay any order, ruling or decision of the Commission, unless the Supreme Court shall so direct, and the appellant may be required by the Supreme Court to give bond in such form and of such amount as may be deemed proper.

SEC. 38. The chief of the legal division or any other attorneys of the Commission shall represent the same in all judicial proceedings. It shall be the duty of the Solicitor General to represent the Commission in any judicial proceedings if, for special reason, the Commissioner shall request his intervention.

SEC. 39. Any proceeding in any court of the Philippines directly affecting an order of the Commission or to which the Commission is a party, shall have preference over all other civil proceedings pending in such court, except election cases.

CHAPTER VI FEES

SEC. 40. The Commission is authorized and ordered to charge and collect from any public service or applicant, as the case may be, the following fees as reimbursement of its expenses in the authorization, supervision and/or regulation of public services:

(a) The charge of fifty pesos for the registration of:

(1) Applications under the provisions of Section sixteen (a), (b), (c), and (d), and twenty (a), (b) (c), (e), (f), and (h): Provided however, That in case of transportation services an additional filing fee of five pesos shall be charged for each additional unit or vehicle in excess of five units or vehicles applied for: And provided, finally, That no filing fee shall be collected for the reduction of rates if the same does not alter or modify in any way the basic rates of the schedule.

(2) Applications for the approval or modification of maximum rates under Section fourteen.

(b) **Thirty pesos** shall be collected from any operator of land transportation for the registration of:

(1) Applications under Section seventeen (f).

(2) Applications for the extension of time covering a period of thirty days for the registration of motor vehicles previously authorized by the Commission.

(c) The charge of thirty pesos for the filing of other applications by any public service operator not specifically provided for in the preceding paragraphs of this section other than motions of a temporary or incidental character: **Provided, however, That fifteen pesos only shall be collected for each certificate of public convenience or certificate of public convenience and necessity in diploma form issued to a public service operator.**

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The fees provided in paragraphs (d) and (e) hereof shall be paid on or before September thirtieth of each year with a penalty of fifty per centum in case of delinquency: Provided, further, That if the fees or any balance thereof are not paid within sixty days from the said date, the penalty shall be increased by one per centum for every month thereafter of delinquency: Provided, however, That motor vehicles registered in the Motor Vehicles Office after September thirtieth shall be exempt from payment for said year.

(e) For annual reimbursement of the expenses incurred by the Commission in the supervision of other public services and/or in the regulation or fixing of their rates, twenty centavos for each one hundred pesos or fraction thereof, of the capital stock subscribed or paid, or if no shares have been issued, of the capital invested, or of the property and equipment, whichever is higher.

(f) For the issue or increase of capital stock, twenty centavos for each one hundred pesos or fraction thereof, of the increased capital.

(g) For each permit authorizing the increase of equipment, the installation of new units or authorizing the increase of capacity. or the extension of means or general extension in the services, twenty centavos for each one hundred pesos or fraction of the additional capital necessary to carry out the permit.

(h) For the inspection or certification made in the meter laboratory of the Commission or each apparatus or meter used by any public service, four pesos, and for examination made outside the meter laboratory of the Commission, the additional expenses as may be incurred in making the examination shall also be paid.

(i) For certification of copies of official documents in the files of the Commission, fifty centavos plus fifty centavos for each page or folio so certified.

This section shall not be applicable to the Republic of the Philippines, nor to its instrumentalities.

Aside from the appropriations for the Commission under the annual General Appropriation Act, any unexpended balance of the fees collected by the Commission under this section shall be constituted receipts automatically appropriated each year, and together with any surplus in the standardizing meter laboratory revolving fund under Commonwealth Act Numbered Three hundred forty-nine, shall be disbursed by the Public Service Commissioner in accordance with special budgets to be approved by the Department of Justice, the Budget Commission and the Office of the President of the Philippines for additional needed personal services, maintenance and operating

expenses, acquisition of urgently needed vehicles, furniture and equipment, maintenance of an adequate reference library, acquisition of a lot and building for the Commission, and other expenses necessary for efficient administration and effective supervision and regulation of public services.

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SEC. 47. This Act shall take effect upon its approval.

Approved: November 7, 1936