

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF THE SALE OF VARIOUS SUB-TRANSMISSION LINES/ASSETS OF THE NATIONAL TRANSMISSION CORPORATION (TransCo) TO CEBU II ELECTRIC COOPERATIVE, INC. (CEBECO II), AS COVERED BY A CONTRACT TO SELL DATED 01 OCTOBER 2015

ERC CASE NO. 2017-091 RC

NATIONAL TRANSMISSION CORPORATION (TransCo) AND CEBU II ELECTRIC COOPERATIVE, INC. (CEBECO II),

D O C K E T E D
Date: MAR 02 2018
By: [Signature]

Applicants.

X-----X

O R D E R

On 13 October 2017, Applicants National Transmission Corporation (TransCo) and Cebu II Electric Cooperative, Inc. (CEBECO II) filed a Joint Application for the approval of the sale of various sub-transmission lines/assets of TransCo to CEBECO II, as covered by a Contract to Sell dated 01 October 2015.

In its Joint Application, TransCo and CEBECO II alleged the following:

1. **TransCo** is a government-owned and controlled corporation created and existing by virtue of R.A. No. 9136, otherwise known as the *Electric Power Industry Reform Act of 2001* (EPIRA), with principal office address at the TransCo Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.

2. **CEBECO II** is an electric distribution utility (DU) organized and existing under the laws of the Republic of the Philippines, with principal office address in Malingin, Bogo, Cebu City, Philippines.
3. By virtue of Section 8 of the EPIRA, TransCo assumed the electrical transmission functions of the National Power Corporation, and the responsibility of the latter for the planning, construction and centralized operation and maintenance of high voltage transmission facilities, including grid interconnections and ancillary services.
4. Section 8 of the EPIRA and Rule 6, Section 8(e) of the *EPIRA's Implementing Rules and Regulations (IRR)* also mandate the segregation of the transmission and sub-transmission functions and assets for transparency and disposal, and authorize TransCo to negotiate for, and to transfer such sub-transmission assets (STAs) and facilities to qualified distribution utilities (DUs).
5. Pursuant thereto, this Honorable Commission promulgated the "*Guidelines on the Sale and Transfer of the TransCo's Sub-transmission Assets and the Franchising of Qualified Consortiums*" (*ERC Guidelines*) dated 17 October 2003, as amended by *Resolution No. 3, Series of 2005* dated 17 March 2005 which set forth, among others, the standards to distinguish TransCo's transmission assets from its sub-transmission assets and establish the approval process prior to the final sale and transfer of sub-transmission assets to qualified DUs.
6. Consistent with the ERC Guidelines, TransCo adopted its own *Guidelines on the Sale of Subtransmission Assets (TransCo Guidelines)* (Annex "A") as approved by *TransCo Board Resolution No. TC-2003-067* dated 28 November 2003 (Annex "B"), as further amended by *TransCo Board Resolution No. TC-2004-009* dated 16 March 2004 (Annex "C").
7. On 16 July 2011, this Honorable Commission issued *Resolution No. 15, Series of 2011* entitled "*A Resolution Adopting the Amended Rules for the Approval of the Sale and Transfer of TransCo's Sub-transmission Assets and the Acquisition by Qualified Consortiums.*"
8. In accordance with the aforesaid *ERC Guidelines*, and based on a thorough evaluation conducted by TransCo, it was determined that the **Medellin Load-end Substation** is a sub-transmission asset. Likewise, CEBECO II is the only qualified DU that is connected thereto.

Copies of the *Report* regarding the nature of the asset, *List of STA/s for Sale to CEBECO II* and the *Single Line Diagram* are attached as Annexes “D”, “E” and “F,” respectively.

9. On 24 June 2015, the CEBECO II Board of Directors issued *Board Resolution No. 88, Series of 2015* (Annex “G”), for the acquisition of the aforesaid line by CEBECO II, and the authorization of Board President Peter John T. Villamor and/or the CEBECO II General Manager, Engr. Loewl O. Belcina, to sign all documents related to the acquisition.
10. On 15 October 2015, TransCo and CEBECO II concluded a *Contract to Sell* (Annex “H”) covering the Medellin Load-end Substation for the amount of **Seven Million Three Hundred Eighty Four Thousand Nine Hundred Seventy Nine Pesos and Eighty Four Centavos (PhP7,384,979.84)**, based on the rolled-forward values of the SKM Valuation (Annex “I”) for the second regulatory period, and inclusive of the twelve percent value-added tax (12% VAT).
11. TransCo has clearly established that CEBECO II satisfies the financial and technical capability criteria under Article IV of the *ERC Guidelines* in acquiring, operating, maintaining, upgrading and expanding the subject sub-transmission asset.
12. In support of the above allegations, applicants also hereby submit the following relevant documents:
 - a. *Financial Qualification Evaluation* of CEBECO II (Annex “J”);
 - b. *Technical Qualification Evaluation* of CEBECO II (Annex “K”);
 - c. *Audited Financial Statements* of CEBECO II as of 31 December 2014 and 31 December 2015 (Annex “L”);
 - d. *Draft Deed of Absolute Sale* (Annex “M”);
 - e. *Franchise Description* (Annex “N”); and,
 - f. *List of Connected DUs and Directly Connected Entities* (Annex “O”).
13. The proposed sale has satisfied all of the requirements and criteria set by the EPIRA and its IRR, as well as the ERC and TransCo’s *Guidelines on the Sale of Subtransmission Assets*.
14. The approval by this Honorable Commission of the instant *Joint Application* shall pave the way for the attainment of a reformed electricity industry under the EPIRA, which would ultimately best serve the interest of the consuming public.

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Commission that after due notice and hearing, a *Decision* be rendered **APPROVING** the sale of TransCo's Medellin Load-end Substation amounting to PhP7,384,979.84 in favour of **Cebu II Electric Cooperative, Inc.** under the terms provided in the *Contract to Sell* dated 01 October 2015.

Applicants also pray for other just and equitable relief.

Finding the said Application to be sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **03 May 2018 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at CEBECO II's Main Office in Malingin, Bogo City, Cebu.**

Accordingly, TransCo and CEBECO II are hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and

- 5) Furnish with copies of the Application and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission their written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicants to inform of the filing of the Application, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the Application and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicants and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-trial Conference, their respective Pre-trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of Applicants to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

TransCo and CEBECO II must also be prepared to make an expository presentation of the instant Application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.

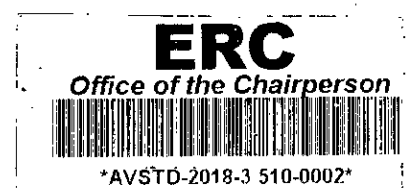
SO ORDERED.

Pasig City, 15 February 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO

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Copy furnished:

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4. Commission on Audit
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5. The Senate Committee on Energy
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6. The House Committee on Energy
Batasan Hills, Quezon City
7. Office of the City Mayor
Quezon City
8. Office of the Local Government Unit (LGU) legislative body
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9. Office of the City Mayor
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10. Office of the LGU legislative body
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12. Office of the LGU legislative body
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13. Office of the Municipal Mayor
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14. Office of the LGU legislative body
Borbon, Cebu
15. Office of the Municipal Mayor
Carmen, Cebu
16. Office of the LGU legislative body
Carmen, Cebu
17. The Municipal Mayor
Catmon, Cebu
18. Office of the LGU legislative body
Catmon, Cebu
19. The Municipal Mayor
Compostela, Cebu

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20. Office of the LGU legislative body
Compostela, Cebu
21. The Municipal Mayor
Daan-bantayan, Cebu
22. Office of the LGU legislative body
Daan-bantayan, Cebu
23. The Municipal Mayor
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24. Office of the LGU legislative body
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25. The Municipal Mayor
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27. The Municipal Mayor
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28. Office of the LGU legislative body
Sogod, Cebu
29. The Municipal Mayor
Tabogon, Cebu
30. Office of the LGU legislative body
Tabogon, Cebu
31. The Municipal Mayor
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