

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 19 DECEMBER 2014

ERC CASE NO. 2015-174 RC

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

Applicants.

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DOCKETED
Date: APR 10 2018
By: [Signature]

ORDER

On 05 October 2015, the 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 assets covered by a contract to sell dated 19 December 2014.

In the said *Joint Application*, TRANSCO and CEBECO II alleged the following:

Applicants, National Transmission Corporation (TRANSCO) and Cebu II Electric Cooperative (CEBECO II), through their respective counsels, and to this Honorable Commission respectfully aver that:

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

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TRANSCO Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.

2. CEBECO II is an electric cooperative (EC) duly organized and existing under the laws of the Republic of the Philippines, with principal office address in Malingin, Bogo City, Cebu, 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 € 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, the Honorable Commission promulgated the "*Guidelines on the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortium*" (ERC Guideline) 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 and establish the approval process prior to the final sale and transfer of STAs to 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 A-1"], as further amended by TRANSCO Board Resolution No. TC-2004-009 dated 16 March 2004 [Annex "A-2"].
7. On 16 July 2011, this Honorable Commission issued Resolution No. 15, Series of 2011 entitles "*A Resolution Adopting the Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Subtransmission 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 Lugo Load-end Substation Equipment, 5 MVA is a sub-transmission asset.

Copies of the Report regarding the nature of the asset, List of STAs for sale to CEBECO II and the Single line diagram are attached as Annexes "B", "C" and "D," respectively.

9. TRANSCO has clearly established that CEBECO II meets the financial capability criteria under Article IV of the ERC Guidelines in acquiring, operating, maintaining, upgrading and expanding the said STA.

Attached are copies of the Financial Qualification Evaluation [Annex "E"] and Audited Financial Statements of CEBECO II as of 31 December 2012 and 31 December 2013 [Annex "F"].

10. TRANSCO has likewise established that CEBECO II meets the minimum technical qualification of an EC as set forth under the ERC and TRANSCO Guidelines. Attached is a copy of CEBECO II's Technical Qualification Evaluation [Annex "G"].
11. CEBECO II is the only qualified EC that is directly connected to the Lugo Load-end Substation Equipment, 5 MVA, as evidenced by the attached List of Connected Distribution Utilities and Directly Connected Entities [Annex "H"].
12. On 25 October 2014, the CEBECO II Board of Directors issued Resolution No. 111, Series of 2014 [Annex "I"] relative to the desired acquisition.
13. On 19 December 2014, TRANSCO and CEBECO II concluded a Contract to Sell [Annex "J"] covering the subject sub-transmission asset amounting to FIVE MILLION THREE HUNDRED NINETY SIX THOUSAND FOUR HUNDRED TWENTY FIVE and EIGHTY SIX CENTAVOS, Philippine Currency (PhP5,396,425.86), plus interest, plus twelve percent value-added tax (12% VAT) thereon which is equivalent to SIX HUNDRED FORTY SEVEN THOUSAND FIVE HUNDRED SEVENTY ONE PERSOS and TEN CENTAVOS (PhP647,571.10) which CEBECO II shall pay in cash or through manager's check.
14. The subject STA is valued in reference to the Sinclair Knight Merz (SKM) valuation pursuant to ERC Resolution No. 01, Series of 2009, as amended. An excerpt from the SKM report for the third regulatory period is attached as Annex "K".
15. Finally, applicants also respectfully submit the following documents in compliance with the Honorable Commission's requirements:
- a. Draft of the Deed of Absolute Sale [Annex "L"]; and,
 - b. Franchise Description [Annex "M"].
16. 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.
17. The approval by this Honorable Commission of the instant Joint Application shall pave the way for the attainment of a

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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 the instant application for the approval of the sale of TRANSCO's sub-transmission assets in favour of Cebu II Electric Cooperative, Inc. under the terms provided in the *Contract to Sell* dated 19 December 2014, be APPROVED.

Applicants also pray for other just and equitable relief.

Finding the said *Joint 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 **02 May 2018 at two o'clock in the afternoon (2:00 P.M.), at CEBECO II's Main Office, 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 body within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearing thereon, 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

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requested, if they so desire, to send their duly authorized representatives at the scheduled hearing; and

- 5) Furnish with copies of the *Joint 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 was 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 body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicants to inform the consumers within the affected franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearing thereon;
- 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 *Joint Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proof 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 the initial hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form 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 *Joint 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 *Joint Application* is all about and the reasons and justifications being cited in support thereof.

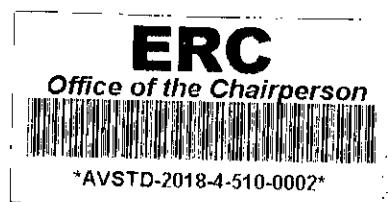
SO ORDERED.

Pasig City, 23 March 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO

LS: JGM/ARG/GLS/APV



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COPY FURNISHED:

1. **Atty. Alan Byrne S. Gaviola**
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2. **Atty. Soledad T. De La Vega-Cabangis, Atty. Nyerson Dexter Tito Q. Tualla, Atty. Leon T. Tapel, and Atty. Noel Z. De Leon**
Counsel for Applicant TRANSCO
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3. **Cebu II Electric Cooperative, Inc. (CEBECO II)**
Applicant
Malingin, Bogo City, Cebu
4. **National Transmission Corporation (TRANSCO)**
Applicant
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Diliman, Quezon City
5. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
6. **Commission on Audit**
Commonwealth Avenue, Quezon City
7. **Senate Committee on Energy**
GSIS Bldg. Roxas Blvd., Pasay City
8. **House Committee on Energy**
Batasan Hills, Quezon City
9. **Philippine Chamber of Commerce and Industry (PCCI)**
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner Park Avenue, McKinley Town Center, Fort Bonifacio, Taguig City
10. **Office of the Governor**
Province of Cebu
11. **Local Government Unit (LGU) legislative body**
Province of Cebu
12. **Office of the City Mayor**
Bogo, Cebu
13. **Office of the LGU legislative body**
Bogo, Cebu
14. **Office of the City Mayor**
Danao, Cebu
15. **Office of the LGU legislative body**
Danao, Cebu
16. **Office of the Municipal Mayor**
Borbon, Cebu
17. **Office of the LGU legislative body**
Borbon, Cebu
18. **Office of the Municipal Mayor**
Carmen, Cebu
19. **Office of the LGU legislative body**
Carmen, Cebu

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20. **Office of the Municipal Mayor**
Catmon, Cebu
21. **Office of the LGU legislative body**
Catmon, Cebu
22. **Office of the Municipal Mayor**
Compostela, Cebu
23. **Office of the LGU legislative body**
Compostela, Cebu
24. **Office of the Municipal Mayor**
Daan-bantayan, Cebu
25. **Office of the LGU legislative body**
Daan-bantayan, Cebu
26. **Office of the Municipal Mayor**
Medellin, Cebu
27. **Office of the LGU legislative body**
Medellin, Cebu
28. **Office of the Municipal Mayor**
San Remigio, Cebu
29. **Office of the LGU legislative body**
San Remigio, Cebu
30. **Office of the Municipal Mayor**
Sogod, Cebu
31. **Office of the LGU legislative body**
Sogod, Cebu
32. **Office of the Municipal Mayor**
Tabogon, Cebu
33. **Office of the LGU legislative body**
Tabogon, Cebu
34. **Office of the Municipal Mayor**
Tabuelan, Cebu
35. **Office of the LGU legislative body**
Tabuelan, Cebu
36. **Office of the Municipal Mayor**
Tuburan, Cebu
37. **Office of the LGU legislative body**
Tuburan, Cebu
38. **Office of the City Mayor**
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39. **Office of the LGU legislative body**
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40. **Regulatory Operations Service**
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