

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

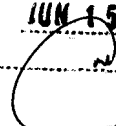
IN THE MATTER OF THE
APPLICATION FOR THE APPROVAL
OF THE SALE OF VARIOUS
SUBTRANSMISSION LINES/ASSETS
WITHIN THE FRANCHISE OF AKLAN
ELECTRIC COOPERATIVE, INC.
(AKELCO)

ERC CASE NO. 2009-051 MC

NATIONAL TRANSMISSION
CORPORATION (TRANSCO) AND
AKLAN ELECTRIC COOPERATIVE,
INC. (AKELCO),

Applicants.





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DOCKETED
Date: JUN 15 2009
By: 

DECISION

Before this Commission for resolution is the joint application filed on May 28, 2009 by the National Transmission Corporation (TRANSCO) and Aklan Electric Cooperative, Inc. (AKELCO) for approval of the sale of various subtransmission lines/assets of TRANSCO within the franchise area of AKELCO.

Having found said application sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated June 29, 2009, were issued setting the case for initial hearing on August 11, 2009.

TRANSCO and AKELCO were directed to cause the publication of the attached Notice of Public Hearing, at their own expense, once (1x) in a newspaper of general circulation in the Philippines, at least ten (10) days before the date of the scheduled initial hearing. They were also directed to inform the consumers within the franchise area of AKELCO, by any other means available and appropriate, of the filing of the instant application, their reasons therefor and of the scheduled hearing thereon.

The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the initial hearing.

Likewise, the Offices of the Mayors of Quezon City and the Municipalities/Cities within the franchise area of AKELCO were furnished with copies of the Order and Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

On August 7, 2009, TRANSCO and AKELCO filed their "*Pre-Trial Brief*".

During the August 11, 2009 initial hearing of this case, only TRANSCO and AKELCO appeared. No intervenor/oppositor appeared nor was there any intervention/opposition registered.

At the said hearing, TRANSCO and AKELCO presented their proofs of compliance with the Commission's posting and publication of notice requirements



which were duly marked as Exhibits "A" to "Post-W", inclusive. Thereafter, they conducted an expository presentation of their application.

At the August 26, 2009 continuation of hearing, TRANSCO presented its witness, Mr. Ernesto M. Daluz, its Manager of Subtransmission Divestment Department, who testified in support of the application. The direct examination having been terminated, the Commission propounded clarificatory questions on the said witness.

During the September 16, 2009 continuation of hearing, AKELCO manifested that a meeting took place between its General Manager and the National Grid Corporation of the Philippines (NGCP) staff relative to the issues on depreciation of the assets and one (1) year lag in the payment of residual charges. The Commission propounded additional clarificatory questions on Mr. Ernesto M. Daluz.

At the September 23, 2009 continuation of hearing, AKELCO presented its witness, Mr. Lorenzo C. Lacerna, Consultant to the General Manager, who testified in support of the application. The direct examination having been terminated, TRANSCO moved that it be allowed to recall its witness for additional direct examinations. Said motion was granted. Thereafter, the Commission propounded clarificatory questions on the said witnesses and directed the NGCP to appear in the next scheduled hearing.

During the November 16, 2009 continuation of hearing, the Commission directed TRANSCO, AKELCO and NGCP to discuss the pertinent details of the operation and maintenance of the submarine cable. TRANSCO and AKELCO were directed to file their formal offer of evidence.



On December 4, 2009, TRANSCO filed its "*Motion for Extension of Time to File Formal Offer of Documentary Evidence.*"

On December 21, 2009, NGCP filed its "*Manifestation and Motion.*"

On December 29, 2009, TRANSCO filed its second "*Motion for Extension of Time to File Formal Offer of Documentary Evidence.*"

On January 14, 2010, TRANSCO and AKELCO filed their "*Formal Offer of Documentary Evidence*" which is hereby admitted for being relevant and material to the final resolution of the case.

DISCUSSION AND EVALUATION

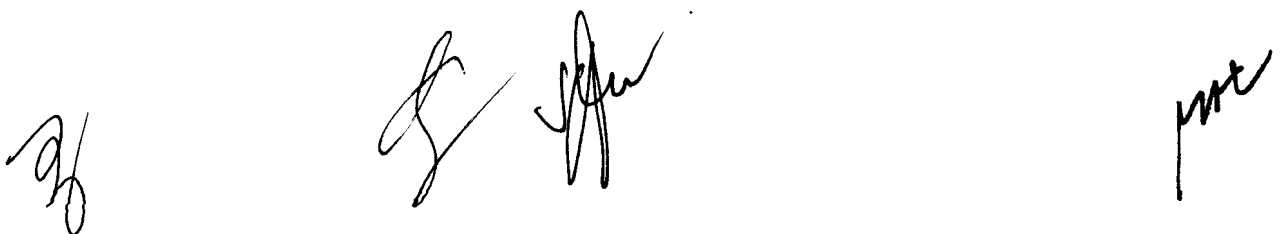
A. Subtransmission Assets for Sale to AKELCO

The following subtransmission assets are for sale to AKELCO:

Subtransmission Assets	Description
A. Submarine cable link from Caticlan CTS to Boracay CTS and its components of existing connection facilities	69 kV Line, 1.8 km.
B. Nabas – Caticlan	69 kV Line, 21.75 km.

B. Classification of Subtransmission Asset for Disposal

- I. The 69 kV line submarine cable link from Caticlan CTS to Boracay CTS including all components of existing connection facilities



The documents submitted by TRANSCO, particularly the single line diagram, showed that the 1.8 km. 69 kV line submarine cable from Caticlan CTS to Boracay CTS, including the components of the existing connection facilities, met the technical and functional criteria that classify the transmission assets and subtransmission assets pursuant to Section 4, Rule 6 of the Implementing Rules and Regulations (IRR) of Republic Act No. 9136 (R.A. 9136) and Section 2, Article III of the *"Guidelines to the Sale and Transfer of the TransCo's Subtransmission Assets and Franchising of Qualified Consortiums"*.

II. Nabas – Caticlan 69 kV lines

Based on the single line diagram of TRANSCO, it was disclosed that AKELCO and the Metro Global Power Plant (MGPP, now Avon River Plant [ARP]), are connected to the Nabas-Caticlan 69 kV line.

Pursuant to the Commission's Guidelines, the *"Lines, power transformers and other assets held by TransCo or its Buyer or Concessionaire, which allows the transmission of electricity to a Grid from one or more directly Connected Generators, shall be classified as Transmission Assets."*¹ Thus, the Nabas-Caticlan 69 kV line specifically from Nabas Substation to the connection point of ARP shall be classified as Transmission assets.

The only portion of the Nabas-Caticlan 69 kV line that is eligible for disposal to AKELCO shall be limited from ARP's connection point up to Caticlan Substation, which shall remain as a connection asset and subtransmission asset.

¹ Section 2 (a) Article III of the Guidelines to the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums



C. Determination of Consortium or Juridical Entity

Considering that a portion of the Nabas-Caticlan 69 kV line remain as transmission assets, AKELCO may validly acquire the line from Caticlan substation to the ARP connection point, without the need of a consortium.

D. Assessment of AKELCO's Qualification as Buyer of the Subtransmission Assets

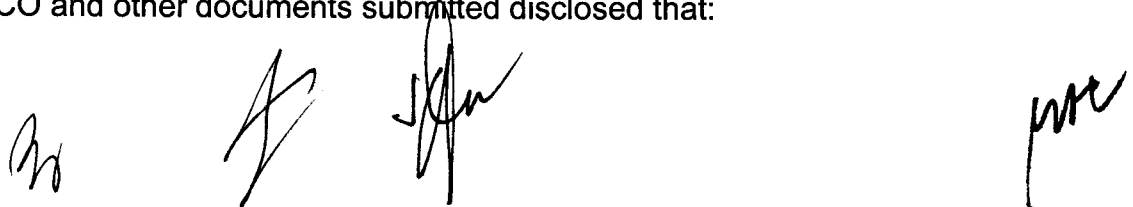
I. Technical Capability

- a. It submitted a certification stating that it has substantial experience in the operation and maintenance of 69 kV lines. It has sufficient inventory of materials and equipment for emergency repairs and maintenance;
- b. It has qualified personnel assigned to metering, protection and instrumentation, transformer testing and evaluation. It submitted a list of qualified technical personnel as supporting documents;
- c. Its Interruption Frequency Rate (IFR) is 71.18, which is higher than the standard set at 20 times interruptions. Its Cumulative Interruption Time (CIT) is 1,967.36 hours compared to the standard set at 45 hours duration. It submitted a Reliability Improvement Program to improve its reliability performance; and
- d. It submitted its Statements of Compliance to the Philippine Grid Code (PGC) and Philippine Distribution Code (PDC).

Based on the foregoing, it can be concluded that AKELCO is technically capable of maintaining the subject subtransmission assets.

II. Financial Capability

A thorough examination of the Audited Financial Statements (AFS) of AKELCO and other documents submitted disclosed that:



- a. It is current in all its financial obligations related to all contracts with suppliers and debt to all creditors.
- b. Its current ratio is 0.47:1.00 and its quick ratio is 0.41:1.00 (*ratios should not be less than 0.70:1 for the current ratio and 0.50:1 for the quick ratio*) as shown by the computation below:

$$\text{Current Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}} = \frac{150,028,764}{319,738,433} = 0.47:1.00$$

$$\text{Quick Ratio} = \frac{\text{Current Assets} - \text{Inventories}}{\text{Current Liabilities}} = \frac{130,669,312}{319,738,433} = 0.41:1.00$$

- c. It has a debt ratio of 1.29:1.00 which is greater than the maximum limit of 80% set in the Guidelines, as shown below:

$$\text{Debt Ratio} = \frac{\text{Total Liabilities}}{\text{Total Assets}} = \frac{640,452,495}{495,496,519} \times 100\% = 1.29:1.00$$

- d. Its average collection period based on its submitted AFS is 39 days or below the criterion set in the *Guidelines* which should not be more than ninety (90) days, as shown in the computation below:

$$\text{Average Collection Period} = \frac{\text{Average Receivables}}{\text{Sales}/365} = \frac{89,538,113}{2,276,312} = 39 \text{ days}$$

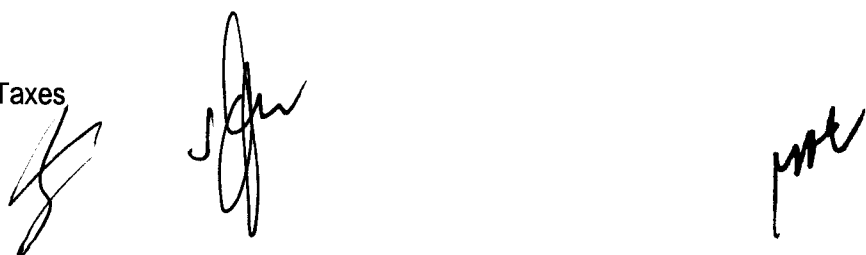
- e. Its net profit margin and return on assets as computed disclosed positive values and are therefore, compliant with the criterion set in the *Guidelines*.

$$\text{Net Profit Margin} = \frac{\text{EBIT}^2}{\text{Sales}} = \frac{140,285,330}{830,853,881} \times 100\% = -0.17:1.00$$

$$\text{Return on Assets} = \frac{\text{EBIT}}{\text{Total Average Assets}} = \frac{140,285,330}{495,496,519} \times 100\% = -0.28:1.00$$

To justify its eligibility to acquire the subject subtransmission assets, AKELCO submitted a "Memorandum" dated May 15, 2009 issued by TRANSCO's Corporate Secretary stating that its Management Committee has resolved to waive the requirement of financial ratios, excluding debt ratios, as a requirement for the pre-qualification of AKELCO.

² EBIT – Earnings Before Interests and Taxes



E. Subtransmission Asset Valuation

On March 16, 2005, TRANSCO and AKELCO entered into a Lease Purchase Agreement (LPA) which provides, among others, that the sound value of the Nabas-Caticlan 69 kV line amounts to PhP33,139,072.52.

On February 7, 2006, another LPA was executed by TRANSCO and AKELCO pertaining to the sale of the 69 kV submarine cable and 30 MVA Boracay Substation with an agreed price of PhP158,116,820.57.

On December 16, 2009, TRANSCO and AKELCO executed an amended LPA which provides, among others, the following:

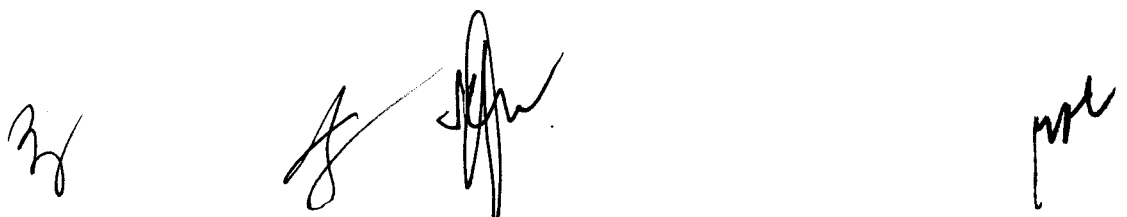
1. For the Nabas-Caticlan 69 kV line, the purchase price of PhP33,139,072.52 was retained without the fifty percent (50%) down payment, payable in twenty (20) years for 240 equal monthly installments with interest at ten percent (10%).

AKELCO has the option to pay the first installment within one (1) year from the approval of the instant application; and

2. For the 69 kV submarine cable and 30 MVA Boracay substation, they agreed to increase the purchase price by three percent (3%) or from PhP158,116,820.57 to PhP163,113,490.04. The said increase was due to the Right-of-Way (ROW) additional costs of PhP2,417,211.78 as of July 31, 2007 and PhP1,200,000.00 additional cost for on ancillary works.

AKELCO has to pay TRANSCO a two percent (2%) downpayment of the increased price and the remaining balance to be paid in twenty (20) years for 240 equal monthly installments, with eleven percent (11%) interest per annum. It was also given the option to pay the first installment within one (1) year from approval by the Commission of the instant application

It must be noted that in its Decision dated June 13, 2006 approving the Final Determination of TRANSCO's Second Regulatory Reset, the Commission



adopted the Sinclair Knight Merz (SKM) valuation as the basis of the cost of TRANSCO's subtransmission assets to arrive at their potential revenue.

In the instant application, the agreed price of the Nabas-Caticlan 69 kV line is with reference to the SKM valuation while the price of the submarine cable was based on the depreciated acquisition cost of TRANSCO.

F. Connection and Residual Subtransmission Charges

Subject to the terms and conditions of the LPA, TRANSCO shall cease to bill AKELCO the corresponding connection and/or residual subtransmission charges once the ownership of the subject subtransmission assets has been transferred to the latter.

Notwithstanding the transfer of ownership of the assets, TRANSCO shall continue charging AKELCO with the corresponding connection and/or residual subtransmission charges which should have been billed and recovered on the applicable service year but were deferred due to the delay incurred in the imposition of the said charges.

After a thorough evaluation of the documents and the testimonies of the witnesses presented herein, the Commission finds that:

- a. The subject lines for sale are subtransmission assets, except the Nabas Substation up to the connection point of ARP;
- b. AKELCO passed the requirements of the criteria established in Section 2, Article IV of the *Guidelines*;
- c. AKELCO is qualified to take over the responsibility of operating, maintaining, upgrading and expanding said subtransmission assets; and



- d. The amount specified in the LPA executed on December 16, 2009 is found to be just and reasonable.

WHEREFORE, the foregoing premises considered, the application for approval of the sale of various subtransmission lines/assets of TRANSCO within the franchise area of AKELCO, as covered by a Lease Purchase Agreement, filed by the National Transmission Corporation (TRANSCO) and Aklan Electric Cooperative, Inc. (AKELCO) is hereby **APPROVED with modification**.

The Nabas Substation to the connection point of Avon River Plant (ARP) shall remain as Transmission Asset pursuant to Section 2 (a) Article III of the "Guidelines to the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums." Thus, the provision on the Lease Purchase Agreement (LPA) pertaining to the sale of Nabas-Caticlan 69 kV line is hereby **DENIED**.

Upon the consummation of the sale, let a copy of the corresponding Deed of Absolute Sale between TRANSCO and AKELCO be furnished the Commission, for record purposes.

SO ORDERED.

Pasig City, March 2, 2010.


ZENAIDA G. CRUZ-DUCUT
Chairperson *gpc*

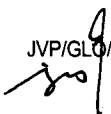

RAUF A. TAN
Commissioner

(Took No Part)

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Commissioner


ALEJANDRO Z. BARIN
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