

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

**GUIDELINES TO GOVERN THE SETTING OF STANDARDS TO  
DISTINGUISH THE TRANSMISSION FROM THE SUBTRANSMISSION  
ASSETS OF TRANSCO AND THE BUYER OR CONCESSIONAIRE OF  
SAID ASSETS AND THE GRANT OF FRANCHISE TO OPERATE THE  
SUBTRANSMISSION ASSETS**

Pursuant to Sections 7 and 8 of Republic Act No. 9136 or the Act and Rule 6 of the Implementing Rules and Regulations (IRR) of the Act, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these guidelines to set the standards to distinguish the TRANSCO's transmission assets from its subtransmission assets and to govern the granting of franchise to the consortium or juridical entity to operate the subtransmission assets.

**ARTICLE I**

**GENERAL PROVISIONS**

These Guidelines shall have the following objectives:

- a) To ensure the continued quality, reliability, security and affordability of electric service to end users;
- b) To ensure the transparent and reasonable prices of electric service in a regime of free and fair competition and to achieve greater operational and economic efficiency;
- c) To enhance the inflow of private capital and broaden the ownership base of the electric power transmission sector;
- d) To provide for the orderly and transparent privatization of the transmission assets of the TRANSCO; and
- e) To provide for the orderly and transparent privatization of certain assets of the TRANSCO or its Buyer or Concessionaire or to qualified electric distribution utilities.

## ARTICLE II

### SCOPE AND DEFINITION OF TERMS

**Section 1. Scope** - These Guidelines shall apply to:

- (a) TRANSCO;
- (b) Buyer or Concessionaire of the TRANSCO; and
- (c) Any Qualified Distribution Utility or Consortium of Qualified Distribution Utilities that intend to or shall acquire and assume responsibility for operating, maintaining, upgrading, and expanding a Subtransmission Asset of the TRANSCO or its Buyer or Concessionaire.

These Guidelines shall not apply to the assets owned by entities other than the TRANSCO or its Buyer or Concessionaire. Furthermore, nothing in these Guidelines shall be interpreted as limiting a customer's ability to wheel power over subtransmission facilities nor affecting any contractual relationship the customer may have for unbundled generation and/or supply service.

**Section 2. Definition of Terms** - As used in these Guidelines, the following terms shall have the following respective meanings:

- (a) "**Act**" unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" ;
- (b) "**Buyer or Concessionaire**" shall refer to the qualified party awarded the sale agreement or concession contract for transmission assets;
- (c) "**Consortium**" shall refer to the juridical entity formed by and composed of two or more Qualified Distribution Utilities each of whom is connected to one or more Subtransmission Assets in common with one or more other Qualified Distribution Utilities;
- (d) "**Distribution Utility**" shall refer to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with its franchise and the Act;
- (e) "**End User**" shall refer to any person or entity requiring the supply and delivery of electricity for its own use;
- (f) "**Energy Regulatory Commission**" or "**ERC**" shall refer to the regulatory agency created by Section 38 of the Act;

(g) **“Franchised Consortium”** shall refer to a Consortium that has been granted a franchise to operate, maintain, expand and upgrade one or more Subtransmission Assets;

(h) **“Directly Connected Entity”** shall refer to each End User, person or entity other than a Qualified Distribution Utility, the members of a Franchised Consortium or TRANSCO or its Buyer or Concessionaire that is directly connected to the Subtransmission Assets;

(i) **“Directly Connected Generators”** shall refer to those generating facilities that normally supply electricity to the Grid and where electricity normally flows from the generator to the Grid. For purposes of these Guidelines, Generators which may supply electricity to the Grid only in cases of emergency shall not be considered Directly Connected Generators;

(j) **“National Transmission Corporation”** or **“TRANSCO”** shall refer to the corporation organized pursuant to the Act to acquire all the transmission assets of the National Power Corporation (NPC);

(k) **“Qualified Distribution Utility”** shall refer to a Distribution Utility that is technically and financially capable of owning, operating, maintaining, upgrading and expanding subtransmission facilities in accordance with the requirement of the Act; and

(l) **“Subtransmission Assets”** shall refer to the facilities related to the power delivery service below the transmission voltages and based on the functional assignment of assets including but not limited to step-down transformers used solely by load customers, associated switchyard/substation, control and protective equipment, reactive compensation equipment to improve customer power factor, overhead lines, and the land where such facilities/equipment are located. These include NPC assets linking the transmission system and the Distribution System which are neither classified as generation nor transmission.

## ARTICLE III

### FUNCTIONAL AND VOLTAGE SUBTRANSMISSION STANDARDS

#### Section 1. Establishment of a Functional Standard -

##### a. Directly Connected Generators

Lines, power transformers and other assets held by TRANSCO or its Buyer or Concessionaire which allow the transmission of electricity to a Grid from one or more Directly Connected Generators shall be classified as transmission assets.

**b. Directly Connected End-Users**

Lines, power transformers, related protection equipment, control systems and other assets held by TRANSCO or its Buyer or Concessionaire which directly connect an End User or group of End Users to a Grid may be classified as subtransmission assets subject to the approval by ERC.

**c. Directly Connected Load-end Substation**

Lines, power transformers, related protection equipment, control systems and other assets held by TRANSCO or its Buyer or Concessionaire which directly connect a load-end substation of one or more Distribution Utilities to a Grid may be classified as subtransmission assets subject to the approval by ERC.

**Section 2. Establishment of a Voltage Standard** – Except as may be authorized by the succeeding article, an asset of TRANSCO or its Buyer or Concessionaire located in the Luzon, Visayas or Mindanao Grids and in the isolated distribution system, shall be classified as transmission assets if its rated voltage is 69 kV and above and subtransmission assets if its rated voltage is below 69 kV.

**ARTICLE IV**

**PETITION FOR FUNCTIONAL ASSET CLASSIFICATION**

**Section 1. Eligible Petitioner** - Any Qualified Distribution Utility or Consortium of Qualified Distribution Utilities which intend to purchase an asset of the TRANSCO or its Buyer or Concessionaire may petition the ERC for such asset to be classified as a subtransmission asset based on the established functional standard and the criteria as provided in Section 4, Rule 6, Part II of the IRR of the Act.

**Section 2. Submission of Required Data** - The Qualified Distribution Utility or Consortium of Qualified Distribution Utilities shall submit the following documents, if applicable, to facilitate the evaluation of the petition for functional asset classification:

- a. Description of the franchise area being served;
- b. Description and electrical diagram of the lines, power transformers and other assets proposed to be classified as subtransmission assets;

- c. Complete listing of any End Users connected to the assets proposed to be classified as subtransmission assets including the contact details for each End User;
- d. Complete listing of all Distribution Utilities and any End Users connected to the assets proposed to be classified as subtransmission assets;
- e. Board Resolution/s authorizing each party to the petition to acquire assets proposed to be classified as subtransmission assets;
- f. Letter of intent or pending contract with TRANSCO or its Buyer or Concessionaire for the purchase of the assets proposed to be classified as subtransmission assets; and
- g. Other documents that may be needed by the ERC in the course of the evaluation.

**Section 3. Procedure for Filing with ERC** – Any petition, application or action to be filed herein shall be governed by the existing Rules of Practice and Procedure Governing Hearings Before the ERC, the pertinent provisions of the Act or its IRR and other related laws.

## **ARTICLE V**

### **APPLICATION FOR FRANCHISE TO OPERATE THE SUBTRANSMISSION ASSET**

**Section 1. Eligible Applicant** – An application for a franchise shall be filed with the ERC by the Consortium or Juridical Entity formed by and composed of two or more Qualified Distribution Utilities to operate, upgrade and expand one or more subtransmission assets: Provided, That each of the Qualified Distribution Utilities is connected to one or more subtransmission assets used in common with one or more of the other Qualified Distribution Utilities.

**Section 2. Submission of Required Data** – The Consortium or Juridical Entity referred to in the preceding section shall submit the following documents to facilitate the evaluation of the application for a franchise:

- a. Description of the franchise area served by each party to the application;

- b. Board Resolution/s authorizing each party to the application to form a Consortium or Juridical Entity with the other parties to the application
- c. Description and electrical diagram of each subtransmission asset to be acquired by the parties to the application;
- d. Board Resolution/s authorizing each party to the application to acquire each subtransmission asset;
- e. Description and/or electrical diagram of the common connection/s of each party to the application;
- f. Complete listing of any persons or entities, other than the parties to the application, connected to each subtransmission asset;
- g. Contact details of the persons or entities, other than the parties to the application, connected to each subtransmission asset;
- h. Subscription rights of each party to the application;
- i. Audited Financial Statement
- j. Other documents that may be needed by the ERC in the course of the evaluation.

**Section 3. Procedure for filing with ERC** - Any petition, application or action to be filed herein shall be governed by the existing Rules of Practice and Procedure Governing Hearings Before the ERC, the pertinent provisions of the Act or its IRR and other related laws.

## **ARTICLE VI**

### **DISPUTE RESOLUTION**

**Section 1. Dispute Resolution Petition** - In case of disagreement in valuation, the TRANSCO or its Buyer or Concessionaire, a Qualified Distribution Utility or a Consortium of Qualified Distribution Utilities, may file with the ERC a petition for dispute resolution.

The ERC, in resolving such dispute, shall value the assets by taking into consideration the following valuation methods: (a) the value allowed in the rate base used to compute the last approved TRANSCO rates net of accumulated depreciation; and (b) the net present value of the revenue that

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would be received from TRANSCO customers served by the asset over the economic life of such asset. Provided: that the parties may be allowed to present evidence to show a more appropriate valuation method

**Section 2. Liability for Cost** – All costs arising from, incidental to, or otherwise attributable to the resolution of any petition for dispute resolution shall be borne by the petitioner.

**Section 3. Procedures for Filing with ERC** - Any petition, application or action to be filed herein shall be governed by the existing Rules of Practice and Procedure Governing Hearings Before the ERC, the pertinent provisions of the Act or its IRR and other related laws.

## ARTICLE VII

### FINAL PROVISIONS

**Section 1. Separability Clause** - If for any reason, any part or section of these Guidelines is declared unconstitutional or invalid, the other parts or sections hereof which are not affected thereby shall continue to be in full force and effect.

**Section 2. Effectivity** - These Guidelines shall take effect on the fifteenth (15<sup>th</sup>) day following its publication in two (2) newspapers of general circulation.

May 15, 2003.