

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 PENINSULA ELECTRIC COOPERATIVE, INC. (PENELCO), AS COVERED BY AN AMENDED LEASE PURCHASE AGREEMENT (LPA) DATED 2 FEBRUARY 2009,

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ERC CASE No. 2009 2010-104-PC

NATIONAL TRANSMISSION CORPORATION (TransCo) and PENINSULA ELECTRIC COOPERATIVE, INC. (PENELCO),
Applicants.

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JOINT APPLICATION

Applicants **NATIONAL TRANSMISSION CORPORATION (TransCo)** and **PENINSULA ELECTRIC COOPERATIVE, INC. (PENELCO)**, through their respective counsels, and to this Honorable Commission, respectfully aver that:

1. Applicant TransCo is a government-owned and controlled corporation created and existing by virtue of Republic Act (RA) 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;

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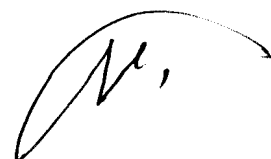
2. Applicant PENELCO is an electric distribution utility (DU) organized and existing under the laws of the Republic of the Philippines with principal office address in Balanga City, Bataan;

3. By virtue of Section 8 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA), TransCo assumed the electrical transmission functions of the National Power Corporation (NPC) and it was authorized and made to assume the responsibility of NPC 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 – 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, and to transfer such sub-transmission assets and facilities to qualified distribution utilities;

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;

Consistent with the ERC Guidelines, TransCo has adopted its own Guidelines on the Sale of Sub-transmission Assets (TransCo Guidelines) as



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approved by Board Resolution No. TC-2003-067 dated 28 November 2003, as further amended by Board Resolution No. TC-2004-009 dated 17 February 2004;

Copies of the TransCo Guidelines and Board Resolutions No. TC-2003-067 and TC-2004-009 are hereto attached as Annexes "A", "B" and "C," respectively;

6. In accordance with the aforesaid ERC Guidelines, TransCo has evaluated that the following assets meet the criteria for sub-transmission assets:

- (a) Hermosa-Balanga 69 kV Line;
- (b) Balanga-BTPP 69 kV Line;
- (c) Alas-Asin Tap-Chi-Exemplar 69 kV Line;
- (d) PNPP-Napot-Bagac 69 kV Line;
- (e) PNPP-Morong/Napot 69 kV Line;

Copies of the Report that the assets for sale meet the criteria for sub-transmission assets, list of sub-transmission assets for sale and the electrical diagram are hereto attached as Annexes "D", "E" and "F," respectively;

7. Applicant PENELCO, as the buyer of the above-cited sub-transmission assets, possesses the technical capability criteria under Article IV of the ERC Guidelines in acquiring the said sub-transmission assets. PENELCO is likewise financially capable of operating and maintaining the said sub-transmission assets which are found within its franchise area;

Attached hereto as Annex "G" is the audited financial statement of Applicant PENELCO as of 31 December 2003;



8. TransCo has evaluated and established PENELCO's technical and financial qualifications to purchase the subject assets which are located within its franchise area;

Copies of the Technical and Financial Qualification Evaluations conducted by TransCo as well as the Description of the Franchise Area being served by the subject assets are attached as Annexes "H," "I" and "J," respectively;

9. On 16 August 2006, TransCo negotiated and concluded a Lease Purchase Agreement (LPA) with PENELCO (Annex "K") covering the said sub-transmission assets;

The Board of Directors of PENELCO, via Board Resolution No. 488, Series of 2006, dated 7 August 2006 (Annex "L") authorized its former Board President, Rafael E. Pizarro, to negotiate the purchase of the subject assets;

10. Under the terms of the said LPA, PENELCO shall pay TransCo the amount of **NINETY MILLION FIVE HUNDRED FORTY THREE THOUSAND ONE HUNDRED AND 90/100, Philippine currency (Php90,543,100.90);**

11. However, pursuant to ERC Resolution No. 01, series of 2009, and considering further that the said LPA was entered into by the parties after 13 June 2006, there was a need to value the subject sub-transmission assets in reference to the Sinclair Knight Merz (SKM) valuation. An excerpt from the report of SKM showing the value of the subject assets is hereto attached as Annex "M";

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12. On 2 February 2009, Applicants TransCo and PENELCO came up with an Amended Lease Purchase Agreement (Annex "N") wherein the total purchase price of the subject assets was reduced to **SIXTY ONE MILLION NINE HUNDRED NINETEEN THOUSAND THREE HUNDRED FIFTY SEVEN AND 98/100, Philippine currency (Php61,919,357.98);**

Upon approval by the ERC of the Amended LPA, PENELCO shall be pay TransCo in cash or in the form of manager's or cashier's check the amount of twenty percent (20%) of the total purchase price, which is equivalent to **TWELVE MILLION THREE HUNDRED EIGHTY THREE THOUSAND EIGHT HUNDRED SEVENTY ONE AND 60/100, Philippine currency (Php12,383,871.60);**

The remaining balance of EIGHTY PERCENT (80%) of the total purchase price, or **FORTY NINE MILLION FIVE HUNDRED THIRTY FIVE THOUSAND FOUR HUNDRED EIGHTY SIX AND 38/100, Philippine currency (Php 49,535,486.38)** shall be paid by PENELCO in TWO HUNDRED THIRTY SIX (236) equal monthly installments;

13. PENELCO is the only distribution utility which is directly connected to the subject assets (Annex "O");

14. Furthermore, Applicants TransCo and PENELCO respectfully submit the following documents as part of the requirements provided in the ERC Guidelines:

- a. Billing Determinants (Annex "P"); and,
- b. Draft Deed of Sale (Annex "Q");



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14. The proposed sale has satisfied all of the requirements and criteria set by the EPIRA, its Implementing Rules and Regulations (IRR), as well as this Honorable Commission's Guidelines and TransCo's Guidelines on the Sale of Sub-transmission Assets;

15. 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, towards a competitive regime/cost of electricity through open access and customer choice of supplier of electricity, which would ultimately best serve the interest of the consuming public.

PRAYER

WHEREFORE, it is most respectfully prayed to this Honorable Commission that the instant application for the approval of the sale of TransCo's sub-transmission assets in favour of PENELCO under the terms provided in the Amended Lease Purchase Agreement (LPA) dated 2 February 2009, be **APPROVED**.

Applicants pray for such other relief as are deemed just and equitable under the premises.

Quezon City and Balanga City for Pasig City, 4 January 2010.



NATIONAL TRANSMISSION CORPORATION (TransCo)

Transco Main Building, Quezon Avenue
corner BIR Road, Diliman, Quezon City
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By:



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LEON T. TAPEL JR.

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Corporate Attorney III

Roll of Attorney No. 45797/05/01

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PENINSULA ELECTRIC COOPERATIVE, INC. (PENELCO)

Balanga City, Bataan

By:



ATTY. JULIET SALARIA

Counsel for Applicant PENELCO

Roll of Attorney No. 38430

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MCLE Compliance No. II- 0010487 7/2/08

Mobile Nos. 0918-902-9672

PJR # 0093504 1/4/10 Bataan

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Republic of the Philippines)
Quezon City) S.S.

VERIFICATION and CERTIFICATION ON NON-FORUM SHOPPING


I, **ATTY. MOSLEMEN T. MACARAMBON**, of legal age, married, with office address at the National Transmission Corporation, TransCo Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City, after having been duly sworn in accordance with law, do hereby depose and state, that:

1. I am the President and Chief Executive Officer (CEO) of the National Transmission Corporation (TransCo), who is authorized to represent it in this Joint Application as per attached TransCo Board Resolution No. TC-2006-025 dated 20 September 2006 (Annex "R");
2. I have caused the preparation of the instant Joint Application and read the contents thereof, and I attest that the allegations herein contained are true and correct based on my personal knowledge and on authentic records;
3. I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein; and,
4. Should I hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report the said fact within five (5) days from discovery thereof to this Honorable Commission.



ATTY. MOSLEMEN T. MACARAMBON
Affiant

SUBSCRIBED and SWORN TO before me this ____ day of MAR 03 2010, 2010, with affiant **ATTY. MOSLEMEN T. MACARAMBON** presenting to me his Community Tax Certificate No. 01490134 issued on 8th January 2010 in MANILA.



ATTY. N. FABRE LUNA
NOTARY PUBLIC
My commission expires 31-2010
PTR 3060115-10/RC
IBP 780284/1-6-10/RC
ROLL NO. 20408

Doc. No. 29-c;
Page No. 04;
Book No. 03;
Series of 2010.

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Republic of the Philippines)
Balanga City) S.S.


VERIFICATION and CERTIFICATION ON NON-FORUM SHOPPING

I, **ALBERTO A. VILLARUZ**, of legal age, married, with office address at Peninsula Electric Cooperative, Inc. (PENELCO), Balanga City, Bataan, hereby state under oath that:

1. I am the Board President of PENELCO, who is authorized to represent it in this Joint Application as per the attached copy of Board Resolution No. 488, Series of 2006, dated 7 August 2006 (Annex "S");
2. I have caused the preparation of the instant Joint Application and read the contents thereof, and I attest that the allegations herein contained are true and correct based on my personal knowledge and on authentic records;
3. I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein; and,
4. Should I hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report the said fact within five (5) days from discovery thereof to this Honorable Commission.


ALBERTO A. VILLARUZ
Affiant *US* 8/12

SUBSCRIBED and SWORN to before me this MAR 31 2010 day of January 2010, with affiant exhibiting to me his Community Tax Certificate (CTC) No. 24315411 issued in Limay Bataan on 01-29-10.


ATTY. RENATO C. BAGAY
NOTARY PUBLIC
My commission expires 2011
PR. No. 023/392-01-04-2010/BATAAN
IBP NO. 661989/01/04-2010/BATAAN

Doc. No. 126 ;
Page No. 27 ;
Book No. 001X ;
Series of 2010.