

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 VISAYAN ELECTRIC
COMPANY, INC. (VECO), AS COVERED BY A
CONTRACT TO SELL**

ERC CASE No. **2010-159RC**

**NATIONAL TRANSMISSION CORPORATION
(TRANSCO) and VISAYAN ELECTRIC
COMPANY, INC. (VECO)**

Applicants.

x-----x

JOINT APPLICATION

**APPLICANTS, NATIONAL TRANSMISSION CORPORATION (“TRANSCO”) and
VISAYAN ELECTRIC COMPANY, INC. (“VECO”),** through their respective counsels, to this
Honorable Commission, respectfully aver that:

1. TRANSCO is a government-owned and controlled corporation duly created and existing by virtue of Republic Act 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 where it may be served with notices and other legal processes of this Honorable Commission;

2. VECO is an electric distribution utility (DU) duly organized and existing under the laws of the Republic of the Philippines, with principal office address at D. Jakosalem Street, Cebu City, Philippines. It may be served notices and other legal

processes through its counsel-of-record, Atty. Joan A. Giduquio-Baron, at Unit 902 Ayala Life-FGU Center, Cebu Business Park, Cebu City, Philippines;

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3. Pursuant to Section 8 of the EPIRA, TRANSCO assumed the electrical transmission functions of the National Power Corporation (NPC) and the latter's responsibility for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services;

4. Section 8 of the EPIRA and Section 8(e), Rule 6 of its Implementing Rules and Regulations (IRR) likewise mandate the segregation of the transmission and sub-transmission functions and assets for transparency and disposal, and authorize TRANSCO to negotiate and transfer such sub-transmission assets and facilities to qualified DUs and consortia;

5. Pursuant thereto, this Honorable Commission promulgated the *"Guidelines to the Sale and Transfer of the TRANSCO's Sub-transmission Assets and the Franchising of Qualified Consortiums"* (ERC Guidelines) dated 17 October 2003;

6. Consistent with the ERC Guidelines, TRANSCO adopted its own Guidelines on the Sale of Sub-transmission Assets (TRANSCO Guidelines) which was approved by the TRANSCO Board of Directors per TRANSCO Board Resolution No. TC-2003-067 dated 28 November 2003, as further amended by TRANSCO Board Resolution No. TC-2004-009 dated 17 February 2004;

Copies of the TRANSCO Guidelines and Board Resolutions Nos. TC-2003-067 and TC-2004-009 are hereto attached as Annexes "A", "B" and "C", respectively;

7. In ERC Case No. 2008-033 MC entitled "*In the Matter of the Petition for Dispute Resolution on the Classification of an Asset of the National Transmission Corporation,*" VECO sought the re-classification of the Quiot substation from being a transmission asset to that of a sub-transmission asset in view of the substation's inclusion in its Maximum Allowable Revenue (MAR) Application for 2007, docketed as ERC Case No. 2006-061 RC;

8. Having found merit in the said Petition, the ERC rendered a decision dated 20 July 2009 reclassifying the 100 MVA power transformer and all the associated 69 kV facilities and equipment from transmission assets into sub-transmission assets (STAs), but expressly excluded therefrom all the 139 kV facilities which shall be retained by NGCP as part of its Regulatory Asset Base (RAB). NGCP was further ordered to sell the reclassified assets to qualified DUs subject to the ERC Guidelines. A copy of the 20 July 2009 Decision is hereto attached as Annex "D";

9. TRANSCO evaluated and established that VECO possesses the technical and financial capabilities to purchase, operate, maintain, upgrade and expand TRANSCO's 69 kV Quiot substation equipment under Article IV of the ERC Guidelines;

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 asset, are hereto attached as Annexes "E" "F" and "G," respectively;

10. VECO's financial capacity is evidenced further by its Financial Statements as of 31 December 2007 and 31 December 2008 (Annex "H"), and the Independent Auditor's Report dated 9 March 2009 (Annex "I");

11. Thereafter, on 5 August 2010, TRANSCO negotiated and concluded a Contract to Sell with VECO (Annex "J") covering the 69 kV Quiot substation equipment. Hereto attached as Annex "K" is a copy of the Secretary's Certificate dated 25 August 2005 relative to the sale;

12. Under the terms of the said contract, the total purchase price is One Hundred Forty One Million Four Hundred Eighty Nine Thousand Four Hundred Ninety One, Philippine currency (Php141,489,491.00), net of adjustments and deductions;

The said purchase price is consistent with the SKM valuation, as evidenced by the hereto attached Third Party Appraisal Report (Annex "L");

13. Finally, Joint Applicants are submitting a copy of the Draft Deed of Absolute Sale (Annex "M") as part of the requirements provided in the ERC Guidelines;

14. 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 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 after due hearing, judgment be rendered **APPROVING** the sale of **TRANSCO's** 69 kV Quot substation equipment to the **VISAYAN ELECTRIC COMPANY, INC. (VECO)**.

Applicants also pray for other just and equitable relief.

Quezon City and Cebu City for Pasig City, 17 November 2010.

NATIONAL TRANSMISSION CORPORATION (TRANSCO)

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By:

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VISAYAN ELECTRIC COMPANY, INC. (VECO)

By:

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VERIFICATION and CERTIFICATION ON NON-FORUM SHOPPING

I, **MELINDA T. NUIQUE**, Filipino, of legal age, married, and with office address at the National Transmission Corporation (TRANSCO), 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 Officer-in-Charge (OIC)-President and Chief Executive Officer (CEO) of TRANSCO, who is authorized to represent it in this Joint Application as per the attached TRANSCO Board Resolution No. TC-2006-025 dated 20 September 2006 (Annex "N") and Section 7.0 of the Manual of Approvals (Annex "O");

(2) I have caused the preparation of the instant Joint Application and read the contents thereof, and I attest that the allegations therein contained are true and correct based on my personal knowledge and on authentic records available to applicant TRANSCO;

(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.

MELINDA T. NUIQUE
Affiant

ACKNOWLEDGMENT

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

SUBSCRIBED and SWORN TO before me this ___day of November, 2010, with affiant presenting to me her Company Identification Card No. _____ issued at _____ on _____, known to me and to me known to be the same person who executed the foregoing Joint Application which consists of nine (9) pages including the page where this Acknowledgment is written.

NOTARY PUBLIC
My commission expires _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2010.

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

VERIFICATION and CERTIFICATION

I, **JAIME JOSE Y. ABOITIZ**, Filipino, of legal age, and with office address at the Visayan Electric Company, Inc. (VECO), J. Panis Street, Banilad, Cebu City, Philippines, after having been duly sworn in accordance with law, do hereby depose and state that:

(1) I am the Executive Vice President & Chief Operating Officer of VECO, who is authorized to represent it in this Joint Application pursuant to the attached Secretary's Certificate;

(2) I have caused the preparation of the instant Joint Application and read the contents thereof, and I attest that the allegations therein contained are true and correct based on my personal knowledge and on authentic records available to applicant VECO;

(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.

Cebu City, Philippines, 23 November 2010.

JAIME JOSE Y. ABOITIZ
Affiant

ACKNOWLEDGMENT

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

SUBSCRIBED and SWORN to before me this ____ day of November, 2010, with affiant exhibiting to me his Phil. Driver's License No. G01-84-036876 to expire on November 8, 2011 issued at LTO-Cebu, known to me and to me known to be the same person who executed the foregoing Joint Application which consists of nine (9) pages including the page where this Acknowledgment is written.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2010.