

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 THE  
CONSORTIUM OF DAVAO  
DEL NORTE ELECTRIC,  
COOPERATIVE, INC.  
(DANECO) AND DAVAO  
LIGHT AND POWER  
COMPANY, INC. (DLPC),  
AS COVERED BY A  
CONTRACT TO SELL  
DATED 06 MARCH 2012,

ERC CASE NO. 2015-223 RC

NATIONAL  
TRANSMISSION  
CORPORATION  
(TRANSCO) AND THE  
CONSORTIUM OF DAVAO  
DEL NORTE ELECTRIC  
COOPERATIVE, INC.  
(DANECO) AND DAVAO  
LIGHT AND POWER  
COMPANY, INC. (DLPC),

DOCKETED  
Date: AUG 15 2017  
By: M

Applicants.

x-----x

**ORDER**

On 29 December 2015, National Transmission Corporation (TRANSCO) and the Consortium of Davao del Norte Electric Cooperative, Inc. (DANECO) and Davao Light and Power Company,

Inc. (DLPC) filed a *Joint Application* for the approval of the sale of various sub-transmission lines/assets of TRANSCO to the consortium of DANECO and DLPC as covered by a Contract to Sell dated 06 March 2012.

The Applicants alleged the following in their *Joint Application*:

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 TRANSCO Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.
2. **DLPC** is an electric distribution utility (DU) organized and existing under the laws of the Republic of the Philippines, with office address in C. Bangoy Sr. St., Davao City, Philippines.
3. **DANECO** is an electric cooperative (EC) duly organized and existing under the laws of the Republic of the Philippines, with principal office address in Km. 100, Montevista, Compostela Province, Philippines.
4. On 21 November 2011, DLPC and DANECO formed a Consortium for the specific purpose of acquiring TRANSCO's sub-transmission assets subject matter of the instant *Joint Application*. Attached as Annex "A" is a copy of the *Consortium Agreement* dated 12 December 2011.
5. 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.
6. Section 8 of the EPIRA and Rule 6, Section 8 (e) 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).
7. Pursuant thereto, this Honorable Commission promulgated the "*Guidelines on the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums*" (ERC Guidelines) 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 assets and establish the approval process prior to the final sale and transfer of STAs to DUs.

8. Consistent with the ERC Guidelines, TRANSCO adopted its own Guidelines on the Sale of Subtransmission Assets (TRANSCO Guidelines) [Annex "B"] as approved by TRANSCO Board Resolution No. TC-2003-067 dated 28 November 2003 [Annex "C"], as further amended by TRANSCO Board Resolution No. TC-2004-009 dated 16 March 2004 [Annex "D"].
9. On 16 July 2011, this Honorable Commission issued Resolution No. 15, Series 2011 entitled "*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.*"
10. In accordance with the aforesaid ERC Guidelines, and based on a thorough evaluation conducted by TRANSCO, it was determined that the Bingcungan-Madaum 69 kV line and Bingcungan-Tagum 69 kV line are sub-transmission assets. Copies of the Report regarding the nature of the assets, List of STAs for sale to the Consortium and the Single line diagram are attached as Annexes "E", "F" and "G", respectively.
11. On 06 March 2012, TRANSCO and the Consortium of DLPC and DANECO concluded a *Contract to Sell* [Annex "H"] for the acquisition of the aforesaid assets amount to Four Million Seven Hundred Five Thousand Thirty Two and 28/100 (PhP4,705,032.28), net of adjustments and deductions, which the Consortium shall pay in cash or in the form of Manager's or Cashier's check within sixty (60) calendar days from notice of the Honorable Commission's approval of this Joint Application. Said purchase price is based on the 2008 rolled forward Sinclair Knight Merz (SKM) Valuation [Annex "I"].
12. The Consortium shall likewise shoulder the applicable Value-added Tax (VAT), documentary stamp tax and other transaction fees, as may be required.
13. TRANSCO has clearly established that the Consortium satisfies the financial and technical capability criteria under Article IV of the ERC Guidelines in acquiring, operating, maintaining, upgrading and expanding the subject STAs.
14. In support of the above allegation are the following relevant documents:
  - a. Financial Qualification Evaluation of the Consortium [Annex "J"];
  - b. Technical Qualification Evaluation of the Consortium [Annex "K"];
  - c. Audited Financial Statements of DLPC as of 31 December 2010 and 31 December 2011 [Annex "L"]; and

- d. Audited Financial Statements of DANECO as of 31 December 2009 and 31 December 2010 [Annex "M"].
15. Finally, applicants respectfully submit the following documents in compliance with the Honorable Commission's requirements:
    - a. *Draft Deed of Absolute Sale* [Annex "N"];
    - b. Franchise Description [Annex "O"];
    - c. List of Connected Distribution Utilities and Directly Connected Entities [Annex "P"]; and
    - d. DLPC's *Secretary's Certificate* dated 06 December 2011 [Annex "Q"].
  16. The proposed sale has satisfied all of the requirements and criteria set by the ERPIRA 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 of the attainment of a 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 ***Joint Application*** for the approval of the sale of TRANSCO's sub-transmission assets in favour of the **Consortium of DLPC and DANECO** under the terms provided in the *Contract to Sell* dated 06 March 2012, be **APPROVED**.

Applicants also pray for other just and equitable relief.

Finding the said instant *Joint Application* 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 **20 September 2017 (Wednesday) at ten o'clock in the morning (10:00 A.M.), at the Commission's Mindanao Field Office Mintrade Bldg., Monteverde Ave. cor. Sales St., Davao City.**

Accordingly, TRANSCO, DANECO and DLPC 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 the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise areas with copies of this Order and the attached Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected franchise areas 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 the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress with copies of the *Joint Application*, and this Order and the attached Notice of Public Hearing. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish all those making requests with copies of the *Joint Application* and its attachments, 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 afore-

mentioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of the means employed by Applicants to inform the consumers within the affected franchise areas of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of the *Joint Application*, and 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 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 submit the required Pre-Trial Brief and Judicial Affidavits of their witnesses 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, DANECO, and DLPC 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, 25 July 2017.

FOR AND BY AUTHORITY  
OF THE COMMISSION:



**ALFREDO J. NON**  
*Officer-in-Charge of ERC*

LS: /LSP/APV

Copy Furnished:

1. Attys. Katrina M. Platon, Paul B. Sorifio, and Lew Carlo C. Lopez  
*Counsel for Applicant DLPC*  
16<sup>th</sup> Floor, NAC Tower  
32<sup>nd</sup> Street, Bonifacio Global, Taguig City
2. Attys. Noel Z. De Leon, Leon T. Tapel, Jr., Nyerson Dexter Tito Q. Tualla, and Soledad T. De La Vega-Cabangis  
*Counsel for Applicant TransCo*  
TransCo Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City
3. Dechavez & Evangelista Law Offices  
*Counsel for Applicant DANECO*  
Units 1609-1610 Tycoon Centre  
Pearl Drive, Ortigas Center, Pasig City
4. Davao Light and Power Company, Inc. (DLPC)  
*Applicant*  
C. Sangoy Sr. St., Davao City
5. Davao del Norte Electric Cooperative, Inc. (DANECO)  
*Applicant*  
Km. 100, Montevista, Compostela Province
6. Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village  
Makati City, Metro Manila

**ERC CASE NO. 2015-223 RC**  
**ORDER/25 July 2017**  
**Page 8 of 10**

---

7. Commission on Audit  
Commonwealth Avenue, Quezon City, Metro Manila
8. Senate Committee on Energy  
GSIS Building, Roxas Boulevard  
Pasay City, Metro Manila
9. House Committee on Energy  
Batasan Hills  
Quezon City, Metro Manila
10. Philippine Chamber of Commerce and Industry (PCCI)  
McKinley Hill, Fort Bonifacio, Taguig
11. Office of the Provincial Governor  
Province of Davao del Norte
12. Office of the Local Government Legislative Body  
Province of Davao del Norte
13. Office of the Provincial Governor  
Province of Compostela Valley
14. Office of the Local Government Legislative Body  
Province of Compostela Valley
15. Office of the City Mayor  
Davao City
16. Office of the Local Government Legislative Body  
Davao City
17. Office of the City Mayor  
Panabo City, Davao del Norte
18. Office of the Local Government Legislative Body  
Panabo City, Davao del Norte
19. Office of the Municipal Mayor  
Carmen, Davao del Norte
20. Office of the Local Government Legislative Body  
Carmen, Davao del Norte
21. Office of the Municipal Mayor  
Sto. Tomas, Davao del Norte
22. Office of the Local Government Legislative Body  
Sto. Tomas, Davao del Norte
23. Office of the Municipal Mayor  
Braulio Dujali, Davao del Norte
24. Office of the Local Government Legislative Body  
Braulio Dujali, Davao del Norte
25. Office of the City Mayor  
Tagum City, Davao del Norte
26. Office of the Local Government Legislative Body  
Tagum City, Davao del Norte
27. Office of the City Mayor  
Island Garden City of Samal, Davao del Norte



**ERC CASE NO. 2015-223 RC**  
**ORDER/25 July 2017**  
**Page 9 of 10**

---

28. Office of the Local Government Legislative Body  
Island Garden City of Samal, Davao del Norte
29. Office of the Municipal Mayor  
Asuncion, Davao del Norte
30. Office of the Local Government Legislative Body  
Asuncion, Davao del Norte
31. Office of the Municipal Mayor  
Kapalong, Davao del Norte
32. Office of the Local Government Legislative Body  
Kapalong, Davao del Norte
33. Office of the Municipal Mayor  
Talaingod, Davao del Norte
34. Office of the Local Government Legislative Body  
Talaingod, Davao del Norte
35. Office of the Municipal Mayor  
New Corella, Davao del Norte
36. Office of the Local Government Legislative Body  
New Corella, Davao del Norte
37. Office of the Municipal Mayor  
San Isidro, Davao del Norte
38. Office of the Local Government Legislative Body  
San Isidro, Davao del Norte
39. Office of the Municipal Mayor  
Monkayo, Compostela Valley
40. Office of the Local Government Legislative Body  
Monkayo, Compostela Valley
41. Office of the Municipal Mayor  
Montevista, Compostela Valley
42. Office of the Local Government Legislative Body  
Montevista, Compostela Valley
43. Office of the Municipal Mayor  
Nabunturan, Compostela Valley
44. Office of the Local Government Legislative Body  
Nabunturan, Compostela Valley
45. Office of the Municipal Mayor  
Mawab, Compostela Valley
46. Office of the Local Government Legislative Body  
Mawab, Compostela Valley
47. Office of the Municipal Mayor  
Compostela, Compostela Valley
48. Office of the Local Government Legislative Body  
Compostela, Compostela Valley
49. Office of the Municipal Mayor  
New Bataan, Compostela Valley

**ERC CASE NO. 2015-223 RC**  
**ORDER/25 July 2017**  
**Page 10 of 10**

---

50. Office of the Local Government Legislative Body  
New Bataan, Compostela Valley
51. Office of the Municipal Mayor  
Maragusan, Compostela Valley
52. Office of the Local Government Legislative Body  
Maragusan, Compostela Valley
53. Office of the Municipal Mayor  
Maco, Compostela Valley
54. Office of the Local Government Legislative Body  
Maco, Compostela Valley
55. Office of the Municipal Mayor  
Mabini, Compostela Valley
56. Office of the Local Government Legislative Body  
Mabini, Compostela Valley
57. Office of the Municipal Mayor  
Pantukan, Compostela Valley
58. Office of the Local Government Legislative Body  
Pantukan, Compostela Valley
59. Office of the Municipal Mayor  
Laak, Compostela Valley
60. Office of the Local Government Legislative Body  
Laak, Compostela Valley
61. Office of the City Mayor  
Quezon City
62. Office of the Local Government Legislative Body  
Quezon City
63. Regulatory Operations Service  
17<sup>th</sup> Floor, Pacific Center Building  
San Miguel Avenue, Pasig City  
Pasig City