

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 ZAMBOANGA CITY ELECTRIC  
COOPERATIVE, INC.  
(ZAMCELCO), AS COVERED BY A  
LEASE PURCHASE AGREEMENT  
DATED NOVEMBER 19, 2013

ERC CASE NO. 2014-174 RC

NATIONAL TRANSMISSION  
CORPORATION (TRANSCO)  
AND ZAMBOANGA CITY  
ELECTRIC COOPERATIVE, INC.  
(ZAMCELCO),

Applicants.

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BOOKED  
Date: FEB 05 2015  
By: \_\_\_\_\_

## NOTICE OF PUBLIC HEARING

### TO ALL INTERESTED PARTIES:

Notice is hereby given that on December 1, 2014, the National Transmission Corporation (TRANSCO) and the Zamboanga Electric Cooperative, Inc. (ZAMCELCO) filed with the Commission a joint application for approval of the sale of various sub-transmission lines/assets of TRANSCO within the franchise area of ZAMCELCO as covered by a Lease Purchase Agreement (LPA).

In the said application, TRANSCO and ZAMCELCO alleged, among others, that:

1. TRANSCO is a government-owned-and-controlled corporation duly created 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;
2. ZAMCELCO is a qualified distribution utility (DU) organized as a cooperative under Philippine the laws, with principal office address at Maria Clara L. Lobregat Highway, Putik, Zamboanga City, Philippines;
3. By virtue of Section 8 of EPIRA, TRANSCO assumed the electrical transmission functions of the National Power Corporation (NPC) and its authority and responsibility for the planning, construction and centralized operation and maintenance of the high voltage transmission facilities, including grid interconnections and ancillary services. The EPIRA also mandates the segregation of the transmission and sub-transmission functions and assets for transparency and disposal;
4. Section 8 of the EPIRA and Rule 6, Section 8 (e) of the EPIRA's Implementing Rules and Regulations (IRR) likewise provide that TRANSCO shall negotiate with, and thereafter transfer, its sub-transmission assets (STAs) and facilities to qualified DUs connected to such sub-transmission facilities;
5. Pursuant thereto, the Commission promulgated on October 17, 2003 the "*Guidelines to the Sale and Transfer of the TRANSCO's Sub-transmission Assets and the Franchising of Qualified Consortiums*" (ERC Guidelines) as amended by Resolution No. 3, Series of 2005 (March 17, 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 thereof;

6. Consistent with the Commission's Guidelines, TRANSCO has adopted its own *Guidelines on the Sale of Sub-transmission Assets (TRANSCO Guidelines)* [attached to the application as Annex "A"] as approved by TRANSCO Board Resolution No. TC-2003-067 dated November 28, 2003 [attached to the application as Annex "B"], as further amended by TRANSCO Board Resolution No. TC-2004-009 dated March 16, 2004 [attached to the application as Annex "C"];
7. On July 16, 2011, the Commission issued Resolution No. 15, Series of 2011 entitled, "*A Resolution Adopting the Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Sub-transmission Assets and the Acquisition by Qualified Consortiums*";
8. In accordance with the aforesaid Guidelines, TRANSCO has evaluated and established that the following assets, meet the criteria for sub-transmission assets:
  - (a) Putik Lateral 69 kV Line;
  - (b) Recodo Lateral 69 kV Line;
  - (c) Zamboanga-Tumaga 69 kV;
  - (d) Pitogo-Tumaga 69 kV line;
  - (e) Pitogo-Tulungatung 69 kV line; and,
  - (f) Pitogo-San Jose Gusu 69 kV line.

Attached to the application as Annexes "D," "E" and "F," respectively, are copies of the Report that the assets for sale meet the criteria for sub-transmission assets, the List of sub-transmission assets for sale to ZAMCELCO, and the Single line diagram.

9. Pursuant to the aforesaid Guidelines, TRANSCO has evaluated and established that ZAMCELCO meets the technical and financial requirements to purchase, operate, maintain, upgrade and expand the subject assets. Evaluations conducted by TRANSCO, as well as the description of the franchise area being served by the subject assets are attached to the application as Annexes "G", "H", and "I", and the Audited Financial Statements of ZAMCELCO as of December 31, 20015 (Annexes "J");

10. The ZAMCELCO Board of Directors issued Board Resolution No. 113, Series of 2013 (attached to the application as Annex "K") entitled "*A Resolution Approving the Acquisition of the Sub-transmission Assets Offered for Sale by the National Transmission Corporation (TRANSCO) to the ZAMCELCO and Authorizing General Manager, Mr. Sherwin C. Manada and Board President Mr. Omar A. Sahi to Negotiate and to Enter Into A Lease Purchase Agreement (LPA) in Connection with the Acquisition of the TRANSCO's 69 kV Sub-transmission Assets*";
11. Corollary to the above, they concluded a Lease Purchase Agreement dated November 19, 2013 (attached to the application as Annex "L"), covering the subject STAs amounting to Eighty Five Million Four Hundred Sixty Two Thousand Ninety Seven and 80/100, **(PhP85,462,097.80)**, net of adjustments and deductions, which ZAMCELCO shall pay in Two Hundred Forty (240) equal monthly installments;
12. The said purchase price is fair and reasonable as it represents the disposal value of the subject STAs based on potential revenue which, pursuant to the Commission's Guidelines, is deemed to be the Current Sound Value thereof. A copy of the Asset Valuation Computation is attached to the application as Annex "M";
13. On September 30, 2013, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular No. 66-2013 [Annex "N"] which had the effect of revoking TRANSCO's exemption from the payment of twelve percent value-added tax (12% VAT) on the divestment of sub-transmission assets, which exemption was previously granted under BIR Ruling No. 11-07 dated May 31, 2007;
14. On February 7, 2007, the BIR issued Revenue Regulation No. 04-2007 [Annex "O"] which stated, among others, that the 12% VAT shall also be imposed on the interest rate over the amortized amount of the STAs;
15. With the aforesaid BIR issuances, TRANSCO is constrained to demand from ZAMCELCO a 12% VAT,

not only on the contract price of the assets, but also on the interest rate over the amortized amount thereof. This is set forth under Section 3 of the aforesaid LPA;

16. ZAMCELCO is the only qualified DU which is directly connected to the subject STAs, and it has the following connected customers:
  - (a) Permex Producer and Export Corporation;
  - (b) Zamboanga Ecozone and Freeport Authority;
  - (c) Oriental Tin Can and Metal Sheet Manufacturing Company;
  - (d) Interco Manufacturing Corporation; and
  - (e) Bigfish Foods Corporation.
  
17. Moreover, they submitted the following additional documents in support of their Joint Application:
  - (a) Draft Deed of Absolute Sale (attached to the application as Annex "Q");
  - (b) Third Party Appraisal Report (attached to the application as Annex "R");
  - (c) Schedule of Payments (attached to the application as Annex "S"; and
  - (d) ZAMCELCO Board Resolution No. 60, Series of 2014 (attached to the application as Annex "T") approving the filing of the instant Joint Application with TRANSCO, and designating ZAMCELCO Board President and ZAMCELCO General Manager as its official representatives.
  
18. The proposed sale has satisfied all of the requirements and criteria set by the EPIRA and its IRR, as well as the Commission's *and TRANSCO Guidelines on the Sale of the Sub-transmission Assets*;
  
19. The approval by the 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; and

20. They pray that after due notice and hearing, judgment be rendered approving the sale of TRANSCO's sub-transmission assets to ZAMCELCO under the terms set forth in the LPA dated November 19, 2013.

The Commission has set the joint application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **March 24, 2015 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at the ERC Mindanao Field Office, Mintrade Building, Monteverde Avenue corner Sales St., Davao City (in view of the current peace and order situation in Mindanao).**

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and address; (2) the nature of petitioner's interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding; and (3) a statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicants conclude the presentation of their evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicants, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicants are hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

**WITNESS**, the Honorable Chairperson, **ZENaida G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, Energy Regulatory Commission, this 26<sup>th</sup> day of January, 2015 at Pasig City.

  
**ATTY. FRANCIS SATURNINO C. JUAN**  
Executive Director III