

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
AGUSAN DEL SUR ELECTRIC
COOPERATIVE, INC. (ASELCO),
AS COVERED BY A LEASE
PURCHASE AGREEMENT (LPA)
DATED 15 OCTOBER 2019

ERC CASE No. 2019- ____ RC

NATIONAL TRANSMISSION
CORPORATION (TransCo) AND
AGUSAN DEL SUR ELECTRIC
COOPERATIVE, INC. (ASELCO),
Applicants.

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JOINT APPLICATION

Applicants, NATIONAL TRANSMISSION CORPORATION (TransCo) and AGUSAN DEL SUR ELECTRIC COOPERATIVE, INC. (ASELCO), through their respective counsels, and to this Honorable Commission, most respectfully aver that:

1. TransCo is a government-owned and controlled corporation (GOCC) 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. AGUSAN DEL SUR ELECTRIC COOPERATIVE, INC. (ASELCO) is an electric cooperative (EC) duly organized and existing under the laws of the Republic of the Philippines, with principal office address in San Isidro, San Francisco, Agusan Del Sur, Philippines.

3. By virtue of Section 8 of the EPIRA, TransCo assumed the electrical transmission functions of the National Power Corporation

(NPC), 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.

4. Section 8 of the EPIRA and Rule 6, Section 8(e) of its *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), electric cooperatives (ECs) and consortia.

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, as amended by *ERC 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 sub-transmission assets to qualified DUs.

6. Consistent with the *ERC Guidelines*, TransCo adopted its own *Guidelines on the Sale of Sub-transmission Assets* ("*TransCo Guidelines*") [Annex "A"] as approved via *TransCo Board Resolution No. TC-2003-067* dated 28 November 2003 [Annex "B"], as further amended via *TransCo Board Resolution No. TC-2004-009* dated 16 March 2004 [Annex "C"].

7. On 16 July 2011, this Honorable 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 ERC Guidelines, and based on a thorough evaluation conducted by TransCo, it was determined that the San Francisco-ASELCO 69 kV Line is a sub-transmission asset.

Copies of the *Report on the Nature of the Assets, List of STAs for Sale to ASELCO* and the *Single Line Diagram* are attached as Annexes "D", "E" and "F," respectively.

9. TransCo has clearly established that ASELCO meets the financial and technical capability criteria under Article IV of the *ERC*

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Guidelines in acquiring, operating, maintaining, upgrading and expanding the subject sub-transmission asset.

Attached are copies of the *Financial Qualification Evaluation* [Annex "G"] *Technical Qualification Evaluation* [Annex "H"] and *Audited Financial Statements* of ASELCO as of 31 December 2017 and 31 December 2018 [Annex "I"].

10. ASELCO is the only qualified DU that is directly connected to the subject asset, as evidenced by the attached *List of Connected Distribution Utilities* [Annex "J"].

11. On 01 April 2019, the ASELCO Board of Directors issued *Resolution No. 41, Series of 2019* [Annex "K"] relative to the desired acquisition.

12. On 15 October 2019, TransCo and ASELCO executed a *Lease Purchase Agreement* [Annex "L"] covering the subject sub-transmission asset amounting to **Nine Million Eight Hundred Twenty Nine Thousand Five Hundred Ten and 20/100, Philippine Currency (PhP9,829,510.20)**, plus the corresponding twelve percent value-added tax (12% VAT) thereon, net of adjustments and deductions, subject to further adjustments for any major capital investments, expansions and additions, plus interest, payable in two hundred forty (240) equal monthly installments. This is consistent with the SKM Valuation [Annex "M"].

13. Finally, herein applicants also respectfully submit the following documents in compliance with the Honorable Commission's requirements:

- a. Draft of the *Deed of Absolute Sale* [Annex "N"]; and,
- b. *Franchise Description* [Annex "O"].

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*, which would ultimately best serve the interests of the consuming public.

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Commission that after due notice and hearing, a **DECISION** be

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rendered **APPROVING** the instant **Joint Application** pertaining to the sale of TransCo's San Francisco-ASELCO 69 kV Line in favor of **AGUSAN DEL SUR ELECTRIC COOPERATIVE, INC. (ASELCO)** under the terms provided in the 15 October 2019 *Lease Purchase Agreement*.

Applicants also pray for other just and equitable relief.

Respectfully submitted, Quezon City and Agusan Del Sur, for Pasig City, 29 October 2019.

NATIONAL TRANSMISSION CORPORATION
TransCo Main Building, Quezon Avenue corner BIR Road,
Diliman, Quezon City
Telephone 902-1500 loc. 1589

By:



NOEL Z. DE LEON
General Counsel

IBP No. AR15772438; 01/07/19/ Quezon City
MCLE Compliance No. VI-002339; May 8, 2019
Roll of Attorney No. 36660 dated April 1990

LEON T. TAPEL, JR.
Deputy Legal Counsel

IBP No. 083780; 04/17/19/ PPLM
MCLE Compliance No. VI-0024894; April 17, 2019
Roll of Attorney No. 34555 dated May 30, 1987



DONNA L. CALOZA-ALERIA

Manager, Corporate Legal Services Department
IBP Lifetime No. 07254, La Union
MCLE Compliance No. VI-0008473; April 14, 2018
Roll of Attorneys 44968



ANNE ROSE R. DE GUIA

Corporate Attorney, Corporate Legal Services Department
IBP No. 064496; 01/08/2019/ Bulacan
MCLE Compliance No. VI-0025194; April 8, 2019
Roll of Attorney No. 64369 dated May 2009

**AGUSAN DEL SUR ELECTRIC COOPERATIVE, INC.
(ASELCO)
(Co-Applicant)**

By:

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ALAN C. GAVIOLA
PTR No. 236611; Province of Cebu; Jan. 10, 2019
IBP O.R. 068855; Cebu City; Jan. 18, 2019
Roll No. 30385
MCLE Compliance III, 0019612; Dec. 14, 2010



ALAN BYRNE S. GAVIOLA
PTR No. 236610; Province of Cebu; Jan. 10, 2019
IBP O.R. 068856; Cebu City; Jan. 18, 2019
Roll No. 62695
MCLE Compliance VI, 0027706; Apr. 14, 2022

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VERIFICATION and CERTIFICATION
of NON-FORUM SHOPPING

I, **ATTY. MELVIN A. MATIBAG**, Filipino, of legal age, married and with principal 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 **TransCo's** President and Chief Executive Officer who is duly authorized to represent it in this *Joint Application* as per the attached relevant section of TransCo's *Manual of Approvals* (Annex "P").

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. **TransCo** has 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.

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 said fact within five (5) days from discovery thereof to this Honorable Commission.


MELVIN A. MATIBAG
Affiant

SUBSCRIBED AND SWORN to before me this NOV 27 2019 day of _____, 2019 at the National Transmission Corporation, TransCo Main Bldg., Quezon Avenue corner BIR Road, Diliman, Quezon City. Affiant exhibited to me his _____ I.D. No. _____ issued at _____ on _____. Said ID bears his picture and signature.

Doc. No. 512 ;
Page No. 104 ;
Book No. IV ;
Series of 2019.


NOTARY PUBLIC
SOLEDAD T. DELA VEGA-CABANGIS
Notary Public For Quezon City
Notarial Appointment No. NP-284(2018-2019)
Notarial Commission Until December 31, 2019
Roll of Attorneys No. 45797
PTR No. 6236389, Quezon City
IBP Lifetime No. 09105, Bulacan Chapter
National Transmission Corporation
Transco Building, BIR Road Cor. Quezon Ave.,
Diliman, Quezon City

REPUBLIC OF THE PHILIPPINES)
PROVINCE OF AGUSAN DEL SUR) S.S
MUNICIPALITY OF SAN FRANCISCO)

VERIFICATION and CERTIFICATION
of NON-FORUM SHOPPING

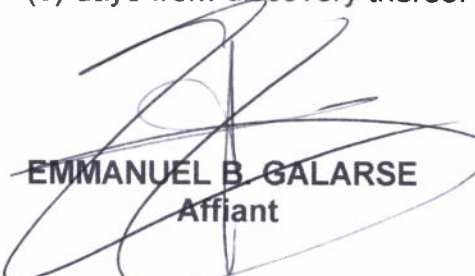
We, **EMMANUEL B. GALARSE**, Filipino, of legal age, married and **CORAZON D. CULLANTES**, Filipino, of legal age, single with principal office address at San Isidro, San Francisco, Agusan del Sur, after having been duly sworn in accordance with law, do hereby depose and state, that:

1. We are the General Manager and Board President of Agusan del Sur Electric Cooperative, Inc. (ASELCO) who are duly authorized to represent and sign all the documents pertinent in this *Joint Application for the approval of the sale of various sub-transmission assets to ASELCO*;

2. We have caused the preparation of the instant *Joint Application* and read the contents thereof, and we attest that the allegations herein contained are true and correct based on our personal knowledge and on authentic records;

3. **ASELCO** has 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.

4. Should we 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, We shall report said fact within five (5) days from discovery thereof to this Honorable Commission.


EMMANUEL B. GALARSE
Affiant


CORAZON D. CULLANTES
Affiant

SUBSCRIBED AND SWORN to before me this 19 NOV 2019, at San Francisco, Agusan del Sur. Affiants exhibited to me their Tax Identification Cards with Numbers 108-873-287 and 114-083-810 issued at the Province of Agusan del Sur, said identification cards bear their pictures and signatures.

Doc. No. 94 ;
Page No. 20 ;
Book No. 49 ;
Series of 2019.

ATTY. JULIE C. SANSAET
NOTARY PUBLIC FOR AGUSAN DEL SUR
UNTIL SEPTEMBER 31, 2020
ROLL OF ATTORNEYS NO. 49822/05-02-05
IBF NO. 857803. 11/04/2018
AGUSAN DEL SUR CHAPTER
PTR NO. 7878803. 01/03/2019
SAN FRANCISCO, AGUSAN DEL SUR
MCLE COMPLIANCE NO. V-0021093/05-05-2019