

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  
A CONTRACT TO SELL DATED  
13 OCTOBER 2020**

**ERC CASE NO. 2020-046 RC**

**NATIONAL TRANSMISSION  
CORPORATION (TRANSCO)  
AND PENINSULA ELECTRIC  
COOPERATIVE, INC.  
(PENELCO),**

**Promulgated:**  
January 18, 2021

**Applicants.**

**X-----X**

**ORDER**

On 29 December 2020, National Transmission Corporation (TRANSCO) and Peninsula Electric Cooperative, Inc. (PENELCO) filed a *Joint Application* dated 10 December 2020, seeking the Commission's 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 a contract to sell dated 13 October 2020.

The pertinent allegations of the *Joint Application* are hereunder quoted as follows:

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. PENELCO is an electric cooperative (EC) duly organized and existing under the laws of the Republic of the Philippines, with principal office address in Balanga City, Bataan, Philippines.
3. 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.
4. 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).
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 *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 by *TransCo Board Resolution No. TC-2003-067* dated 28 November 2003 (Annex "B"), as further amended by *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 Limay (BTPP) – Planters 69 kV Line is a sub-transmission asset. Likewise, PENELCO is the only qualified DU that is connected thereto.

Copies of the *Report* regarding the nature of the asset, *List of STA/s for Sale to PENELCO* and the *Single Line Diagram* are attached as Annexes "D", "E" and "F," respectively.

9. On 22 May 2020, the PENELCO Board of Directors issued *Board Resolution No. 1228, Series of 2020* (Annex "G"), for

the acquisition of the aforesaid line by PENELCO, and the authorization of Board President Fernando P. Manalili and/or the PENELCO General Manager, Engr. Loreto A. Marcelino to sign all documents related to the acquisition for an on behalf of PENELCO.

10. On 13 October 2020, TransCo and PENELCO concluded a *Contract to Sell* (Annex “H”) covering the Limay (BTPP) – Planters 69 kV Line for the amount of Three Hundred Twenty Thousand Six Hundred Ten Pesos and Fifty-Six Centavos, Philippine currency (PhP4,320,610.56), based on the rolled-forward values of the SKM Valuation (Annex “I”) for the second regulatory period, and inclusive of the twelve percent value-added tax (12% VAT).
11. TransCo has clearly established PENELCO satisfies the financial and technical capability criteria under Article IV of the *ERC Guidelines* in acquiring, operating, maintaining, upgrading and expanding the subject sub-transmission asset.
12. In support of the above allegations, applicants also hereby jointly submit the following relevant documents:
  - a. *Financial Qualification Evaluation* of PENELCO (Annex “J”);
  - b. *Technical Qualification Evaluation* of PENELCO (Annex “K”);
  - c. *Audited Financial Statements* of PENELCO as of 31 December 2018 and 31 December 2019 (Annex “L”);
  - d. *Draft Deed of Absolute Sale* (Annex “M”);
  - e. Franchise Description (Annex “N”); and
  - f. List of Connected DUs and Directly Connected Entities (Annex “O”).
13. 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’s *Guidelines on the Sale of Sub-transmission Assets*.
14. 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 rendered APPROVING the sale of Limay (BTPP) – Planters 69 kV Line for the amount of Four Million Three Hundred Twenty Thousand Six Hundred Ten Pesos and Fifty-Six Centavos, Philippine

currency (PhP4,320,610.56), in favor of Peninsula Electric Cooperative, Inc. under the terms provided in the *Contract to Sell* dated 13 October 2020.

Finding the said *Joint Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>1</sup>, dated 24 September 2020:

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>05 March 2021</b> (Friday) at two o'clock in the afternoon (2:00 PM)	<b>Microsoft Teams</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>12 March 2021</b> (Friday) at two o'clock in the afternoon (2:00 PM)	<b>Microsoft Teams</b>	Pre-trial Conference and presentation of evidence

Accordingly, TRANSCO and PENELCO are hereby directed to host the virtual hearing at **PENELCO's principal office located at Balanga City, Bataan**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, Applicants shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

**RELATIVE THERETO**, TRANSCO and PENELCO are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual 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;

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<sup>1</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governors, the City Mayors and the Local Government Unit (LGU) legislative bodies within PENELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within PENELCO's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, its reasons therefor, and of the scheduled virtual hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives and attend the scheduled hearing; and
- 5) Furnish with copies of the *Joint Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearing, Applicants must submit to the Commission via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph), and [records@erc.gov.ph](mailto:records@erc.gov.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), the scanned copies of 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 Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual 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 Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by TRANSCO and PENELCO to inform the consumers within the affected franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the 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.

Moreover, TRANSCO and PENELCO are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Mayors, Provincial Governor and Local Legislative Bodies, and to submit proof of their posting thereof.

TRANSCO and PENELCO and all interested parties are also required to submit via e-mail at [docket@erc.ph](mailto:docket@erc.ph) and [records@erc.gov.ph](mailto:records@erc.gov.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days before the date of the scheduled virtual 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, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

TRANSCO and PENELCO must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the

scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of TRANSCO and PENELCO to comply with the above requirements 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 and PENELCO 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, the nature of the *Joint Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

TRANSCO and PENELCO are hereby directed to file a copy of their Expository Presentation via e-mail at [docket@erc.ph](mailto:docket@erc.ph) and [records@erc.gov.ph](mailto:records@erc.gov.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days prior to the scheduled virtual hearing. TRANSCO and PENELCO shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via e-mail at [docket@erc.ph](mailto:docket@erc.ph) and [records@erc.gov.ph](mailto:records@erc.gov.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.


TRANSCO and PENELCO are hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, TRANSCO and PENELCO, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

**SO ORDERED.**

Pasig City, 11 January 2021.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS: KJP/LSP/MCCG



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COPY FURNISHED:

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7. House Committee on Energy  
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8. Office of the Provincial Governor  
Province of Bataan
9. Office of the Sangguniang Panlalawigan  
Province of Bataan
10. Office of the City Mayor  
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11. Office of the LGU Legislative Body  
Balanga City, Bataan
12. Office of the Municipal Mayor  
Dinalupihan, Bataan
13. Office of the LGU Legislative Body  
Dinalupihan, Bataan
14. Office of the Municipal Mayor  
Hermosa, Bataan
15. Office of the LGU Legislative Body  
Hermosa, Bataan
16. Office of the Municipal Mayor  
Orani, Bataan
17. Office of the LGU Legislative Body  
Orani, Bataan
18. Office of the Municipal Mayor  
Samal, Bataan

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19. Office of the LGU Legislative Body  
Samal, Bataan
20. Office of the Municipal Mayor  
Abucay, Bataan
21. Office of the LGU Legislative Body  
Abucay, Bataan
22. Office of the Municipal Mayor  
Pilar, Bataan
23. Office of the LGU Legislative Body  
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30. Office of the Municipal Mayor  
Bagac, Bataan
31. Office of the LGU Legislative Body  
Bagac, Bataan
32. Office of the Municipal Mayor  
Morong, Bataan
33. Office of the LGU Legislative Body  
Morong, Bataan
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