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

ERC CASE NO. 2019-095 RC

NATIONAL TRANSMISSION
CORPORATION (TRANS CO)
AND AGUSAN DEL SUR
ELECTRIC COOPERATIVE,
INC. (ASELCO),

Applicants.

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 December 2019, the National Transmission Corporation (TRANS CO) and Agusan Del Sur Electric Cooperative, Inc. (ASELCO) filed an Application dated 29 October 2019 (Application), seeking the Commission’s approval of the sale of various sub-transmission lines/assets of TRANS CO to ASELCO, as covered by their Lease Purchase Agreement (LPA) dated 15 October 2019.

The pertinent portions of the said Application are hereunder quoted, as follows:

1. TRANS CO 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 Subtransmission 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 subtransmission assets, and establish the approval process prior to the final sale and transfer of sub-transmission assets to qualified DUs;


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 subtransmission 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 Guidelines* in acquiring, operating, maintaining upgrading and expanding the subject sub-transmission asset;


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*; and

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 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.

Subsequently, the Commission, in its Order and Notice of Virtual Hearing, both dated 03 July 2020, set the instant Application for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference and presentation of evidence on 15 October 2020.

On 02 September 2020, ASELCO and TRANSCO filed an Urgent Motion for Resetting dated 28 August 2020.

During the 15 October 2020 hearing, the Commission noted the Urgent Motion for Resetting dated 28 August 2020 filed through electronic mail¹ (e-mail) by ASELCO and TRANSCO on 02 September 2020. Likewise, the Commission noted the motion of TRANSCO and ASELCO to reset the hearing in March 2021 considering the health hazard brought about by the coronavirus disease 2019 (COVID-19). Finding Applicants’ motion in order, the Commission granted the same.

The Commission hereby sets the instant Application for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on 02 March 2021 (Tuesday) at nine o’clock in the morning (9:00 A.M.), through a virtual hearing using the MS Teams Application as the online platform for the conduct thereof, pursuant to Resolution No 07, Series of 2020² dated 23 July 2020.

RELATIVE THERETO, the Commission hereby directs ASELCO and TRANSCO to host the virtual hearing at ASELCO’s Main Office at San Isidro, San Francisco, Agusan del Sur, 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, ASELCO and TRANSCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

¹ NGCP’s Petition for Intervention was sent via electronic mail (email) to the official email address of the Commission’s Central Records Division (CRD) at records.erc.gov.ph@gmail.com;
Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (e-mail) at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com. 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.

Moreover, all persons who have an interest in the subject matter of the instant case e-mail at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

1) The petitioner’s name, mailing address and e-mail 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.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may likewise file through e-mail at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

1) The name, mailing address and e-mail address of such person;

2) A concise statement of the Opposition or Comment; and

3) The grounds relied upon.
All such persons who wish to have a copy of the Application may request from Applicants that they be furnished with the same prior to the date of the initial hearing. Applicants are hereby directed to furnish all those making such request with copies of the Application and its attachments, through any of the available modes of service, upon their agreement, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the Application and other pertinent records filed with the Commission during the standard office hours. In the alternative, those persons who wish to have an electronic copy of the Application may request the Commission for the e-mail addresses of the Applicant by sending an e-mail to records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com. Nonetheless, any person may also access the Application as posted by the Commission in its official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com, with their respective e-mail addresses and indicating therein the case number of the instant Application. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

WITNESS, the Honorable Commissioners ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA BALDO-DIGAL and MARKO ROMEO L. FUENTES, Energy Regulatory Commission, this 19th day of October 2020 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:

AGNES VST DEVANADERA
Chairperson and CEO

LS: MVM/LSP/MCCG