

Republic of the Philippines
ENERGY REGULATORY COMMISSION
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
PAMPANGA III ELECTRIC
COOPERATIVE, INC. (PELCO
III), AS COVERED BY A
CONTRACT TO SELL DATED
19 OCTOBER 2021**

ERC Case No. 2021-111 RC

**NATIONAL TRANSMISSION
CORPORATION (TransCo)
AND PAMPANGA III
ELECTRIC COOPERATIVE,
INC. (PELCO III),**

Applicants.

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Promulgated:
January 27, 2022

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 31 December 2021, National Transmission Corporation (TransCo) and Pampanga III Electric Cooperative, Inc. (PELCO III) filed their *Joint Application* dated 22 November 2021, for the approval of the sale of various sub-transmission lines or assets of TransCo to PELCO III, as covered by a Contract to Sell dated 19 October 2021.

The pertinent portions in the said *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

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Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City, Philippines.

2. PELCO III is an electric cooperative (EC) duly organized and existing under the laws of the Republic of the Philippines, with principal office address in Sampaloc, Apalit, Pampanga, Philippines. It holds an exclusive franchise from the National Electrification Commission to operate an electric light and power distribution service in certain municipalities of the province of Pampanga, namely: Apalit, Macabebe, Masantol, San Simon, Sto. Tomas and Minalin.
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), 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 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 following assets are indeed sub-transmission assets:

- a. Mexico-SKK20 Line;
- b. SKK20-CIGI Line;
- c. CIGI-Apalit (PELCO III) Line;
- d. Mexico-PELCO III (PAO) Line;
- e. PAO-INGASCO Line;
- f. INGASCO-MIC 2nd Line;
- g. MIC 2nd-UPPC Line;
- h. PELCO III-UPPC Line;
- i. Mexico-SKK40 Line; and,
- j. Mexico-Milwaukee Line.

Moreover, PELCO III is the only qualified DU that is connected thereto.

Copies of the *Report* regarding the nature of the assets, *List of STAs for Sale to PELCO III* and the *Single Line Diagram* are attached as Annexes “D”, “E” and “F,” respectively.

9. On 21 October 2020, the PELCO III Board of Directors issued *Board Resolution No. 79a Series of 2020* (Annex “G”), for the acquisition of the aforesaid lines by PELCO III, and the authorization of Board President, Engineer Lamberto M. Canlas and/or PELCO III General Manager, Maria Elizabeth D. Urbano, to sign all documents related to the acquisition for an on behalf of PELCO III.
10. On 19 October 2021, TransCo and PELCO III concluded a *Contract to Sell* (Annex “H”) covering the sale of the subject sub-transmission assets for the amount of ONE HUNDRED THIRTEEN MILLION NINE HUNDRED EIGHTEEN THOUSAND NINE HUNDRED SEVENTY-SIX PESOS AND SIXTY-FOUR CENTAVOS (PHP 113,918,976.64), 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. Based on a careful evaluation conducted by TransCo, PELCO III meets all technical criteria set forth under Article IV of the *ERC Guidelines* in acquiring, operating, maintaining, upgrading and expanding the subject sub-transmission assets.
12. However, PELCO III failed to meet the Debt Ratio and Average Collection Period under the same *ERC Guidelines*, ratios that TransCo, thru its Management Committee and Board of Directors, decided to waive, on account of the nature of the divestment, which is via an outright sale/*Contract to Sell*, as opposed to a *Lease Purchase Agreement*. Attached as Annex “J” is a copy of the *Secretary’s Certificate* dated 01 October 2021, attesting to the truth hereof and in compliance with Section 2, Article IV of the *ERC Guidelines*.

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13. Considering the two (2) failed financial ratios, PELCO III sourced financing from San Miguel Corporation (SMC) with payment to TransCo to be made either in cash or Manager's Check for the acquisition of the subject sub-transmission assets. Attached as Annex "K" is a copy of PELCO III General Manager Maria Elizabeth D. Urbano's *Letter* dated 02 November 2021, on PELCO III's commitment to avail of financing from SMC.
14. In support of the above allegations, Applicants also hereby jointly submit the following relevant documents:
 - a. *Financial Qualification Evaluation* of PELCO III (Annex "L");
 - b. *Technical Qualification Evaluation* of PELCO III (Annex "M");
 - c. *Audited Financial Statements* of PELCO III as of 31 December 2019 and 31 December 2020 (Annex "N");
 - d. Draft *Deed of Absolute Sale* (Annex "O");
 - e. Franchise Description (Annex "P");
 - f. Franchise Certificate; (Annex "Q"); and
 - g. List of Connected DUs and Directly Connected Entities (Annex "R") with their corresponding contact details
15. The proposed sale has satisfied all 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*.
16. 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, premises considered, the National Transmission Corporation (TransCo) and Pampanga III Electric Cooperative, Inc. (PELCO III) most respectfully pray of this Honorable Commission that after due notice and hearing, a *Decision* be rendered APPROVING the sale of TransCo's subject sub-transmission assets for ONE HUNDRED THIRTEEN MILLION NINE HUNDRED EIGHTEEN THOUSAND NINE HUNDRED SEVENTY-SIX PESOS AND SIXTY-FOUR CENTAVOS (PHP 113,918,976.64), in favor of PELCO III under the terms provided in the *Contract to Sell* dated 19 October 2021.

Applicants also pray for other just and equitable relief.

The Commission has set the instant *Joint Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and online platform for the conduct

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thereof, pursuant to Resolution No. 09, Series of 2020,¹ dated 24 September 2020, and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):²

Date	Platform	Activity
03 March 2022 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
10 March 2022 (Thursday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, copy furnish the Legal Service through 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.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, 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 ERC Revised 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.

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission;

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the scheduled virtual hearing and subject to the requirements under Rule 9 of the ERC Revised 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.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* on the Commission's official website at www.erc.gov.ph.

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

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 13th day of January 2022 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO


LS: KMS/ARG/MCCG

