NATIONAL ADMINISTRATIVE REGISTER · JULY 6, 2011

A RESOLUTION ADOPTING THE AMENDED RULES FOR THE APPROVAL OF THE SALE AND TRANSFER OF TRANSCO’S SUBTRANSMISSION ASSETS THE ACQUISITION BY QUALIFIED CONSORTIUMS

ERC RESOLUTION NO. 15, S. 2011, July 06, 2011

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WHEREAS, on October 17, 2003, the Energy Regulatory Commission (ERC) issued the "Guidelines to the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums" (Subtransmission Guidelines);

WHEREAS, on March 17, 2005, the ERC amended the said guidelines in Resolution No, 03, Series of 2005, entitled "In the Matter of Amending the Guidelines for the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums";

WHEREAS, on January 26, 2009, the ERC further amended the said Guidelines in Resolution No. 01, Series of 2009, entitled "A Resolution Adopting the Amendments to the Guidelines to the Sale and Transfer of TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums";

WHEREAS, on December 15, 2010, the ERC issued Resolution No. 27, Series of 2010 amending pertinent provisions of ERC Resolution No. 48, Series of 2006, entitled "A Resolution Summarizing the Applicable Legal Principles and Policies of the ERC on End-Users Connections" which addressed the concerns of directly connected end-users;

WHEREAS, on December 29, 2010, Manila Electric Company (MERALCO) and Philippine Electric Power Operators Association, Inc. (PEPOA) filed a joint petition docketed as ERC Case No. 2010-012 RM to amend the Subtransmission Guidelines;

WHEREAS, on January 19, 2011, Davao Light and Power Company, Inc. (DLPC) and Davao Del Sur Electric Cooperative, Inc. (DASURECO) filed a "Petition to Initiate Rule-Making" docketed as ERC Case No. 2011-001 RM to amend Section 2(c) of the Subtransmission Guidelines;

WHEREAS, on January 24, 2011, the ERC posted at its official website the instant petitions to solicit comments from interested parties not later than February 11, 2011;

WHEREAS, on various dates, the National Grid Corporation of the Philippines (NGCP), MERALCO and Engr. Robert F. Mallillin filed their respective comments on the said petitions;

WHEREAS, after considering all the comments received from interested parties, the ERC issued a proposed "Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Subtransmission Assets and the Acquisition by Qualified Consortiums" (Amended Rules) and posted the said Amended Rules at its official website on April 20, 2011 to solicit comments from interested parties;

WHEREAS, on April 25,2011, the ERC issued an Order and Notice of Proposed Rule-Making consolidating the

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two (2) petitions inasmuch as they involve the same subject matter and setting the consolidated petitions for public hearing on May 20, 2011. In the said Order, the ERC again solicited comments on the consolidated petitions from interred parties not later than May 11, 2011;

WHEREAS, on May 20,2011, the ERC conducted a public hearing on the said consolidated petitions which was attended by various interested parties. In the said hearing, he ERC directed all those present to submit their comments on the proposed Amended Rules not later than June 3, 2011;

WHEREAS, after considering the proposals of the petitioners as well as the comments of the parties, the ERC deems it necessary to amend the Subtransmission Guidelines incorporating the following: 1) the proposals of the petitioners in the consolidated petitions: 2) the amendments adopted by the ERC as embodied in its Resolution No. 1, Series of 2009, Resolution No. 18, Series of 2009 and Resolution No. 27, Series of 2010; and 3) the policy adopted by the ERG in ERC Case No. 2008-088 MC;

WHEREAS, the amendments to the Subtransmission Guidelines include, among others, the following:

- Definition and treatment of Consortium;

- Extension of the deadline for disposition of subtransmission assets until December 31, 2011 pursuant to the policies adopted in Resolution No. 27, Series of 2010 and ERC Case No. 2008-088 MC;

- Responsibility for the Right of Way (ROW) costs incurred before and after the signing of the Lease Purchase Agreement (LPA) or Contract to Sell;

- Compulsory capitalization of deferred subtransmission charges for Electric Cooperatives (ECs) only;

- Billing of directly connected end-users pursuant to Resolution No. 27, Series of 2010; and

- Submission of required data in forming a consortium, such as a Memorandum of Agreement (MOA) anda policy on the treatment of existing and future connected end-user.

NOW, THEREFORE, the ERC, after thorough and due deliberation, RESOLVED, as it hereby RESOLVES to ADOPT the "Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortiums," hereto attached as Annex "A"[*] and made an integral part of this Resolution.

This Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines.

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR), TRANSCO, NGCP, PEPOA and all distribution utilities.

Adopted: 06 July 2011

(SGD.) ZENAIDA G. CRUZ-DUCUT

Chairperson

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(SGD.) RAUF A. TAN

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Commissioner

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(SGD.) MARIATERESA A.R. CASTANEDA (on leave)

(SGD.) JOSE C. REYES

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[*] Text Available at Office of the National Administrative Register, U.P. law Complex, Diliman, Quezon City.

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