

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

Office of the President
2018 - 03 - 290

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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 ISABELA II ELECTRIC
COOPERATIVE, INC.
(ISELCO II), AS COVERED
BY AN AMENDED LEASE
PURCHASE AGREEMENT
(LPA) DATED 20 MAY 2015,

ERC CASE NO. 2018-005 RC

NATIONAL TRANSMISSION
CORPORATION (TRANSCO)
AND ISABELA II ELECTRIC
COOPERATIVE, INC.
(ISELCO II),
Applicants.
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MAR 16 2018
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ORDER

On 25 January 2018, National Transmission Corporation (TRANSCO) and Isabela II Electric Cooperative, Inc. (ISELCO II) filed an *Application* dated 24 November 2017 (*Application*) for the sale of various sub-transmission lines/assets of TRANSCO to ISELCO II, as covered by an amended Lease Purchase Agreement (LPA).

TRANSCO and ISELCO II alleged the following in their *Application*:

1. TRANSCO is a government-owned and controlled corporation 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. ISELCO II is an electric cooperative (EC) duly organized and existing under the laws of the Republic of the Philippines, with principal office address at the Government Center, Alibagu, Ilagan, Isabela, 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 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).
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 sub-transmission assets and establish the approval process prior to the final sale and transfer of STAs to 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 "A-1"], as further amended by TRANSCO Board Resolution No. TC-2004-009 dated 16 March 2004 [Annex "A-2"].
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 Subtransmission 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 are sub-transmission assets:
 - a. Tap Gannu-Roxas 69 kV line;
 - b. Tuguegarao-Cabagan 69 kV line;
 - c. Naguilian-Gannu-Ilagan 69 kV line; and,
 - d. Ilagan substation.

Copies of the Report on the Nature of the Assets, List of STAs for Sale to ISELCO II and the Single Line Diagram are attached as Annexes "B", "C" and "D," respectively.

9. TRANSSCO has clearly established that ISELCO II meets the financial and technical capability criteria under Article IV of the ERC Guidelines in acquiring, operating, maintaining, upgrading and expanding the said STAs.

Attached are copies of the *Financial Qualification Evaluation* [Annex "E"], *Technical Qualification Evaluation* [Annex "F"] and *Audited Financial Statements of ISELCO II* as of 31 December 2012 and 31 December 2013 [Annex "G"].

10. ISELCO II is the only qualified EC that is directly connected to the subject assets, as evidenced by the attached List of Connected Distribution Utilities [Annex "H"].

11. On 15 February 2013, the ISELCO II Board of Directors issued Resolution No. 2013-016 [Annex "I"] relative to the desired acquisition.

12. On 29 March 2011, TRANSSCO and ISELCO II concluded a Lease Purchase Agreement [Annex "J"] covering the subject sub-transmission assets amounting to Ninety Eight Million Six Hundred Forty Six Thousand Seven Hundred Fifty Two and Seventy Five Centavos, Philippine Currency (PhP98,646,752.75), plus interest thereon, which ISELCO II shall pay in two hundred forty (240) equal monthly installments.

13. On 20 May 2015, TRANSSCO and ISELCO II executed an Amended Lease Purchase Agreement [Annex "J-1"] in order to reflect the following changes:

a. A reduction of the cost of the Tap Gammu-Roxas 69 kV line, from that of Twelve Million Eight Hundred Thirteen Thousand Five Hundred Twenty Three Pesos and 11/100, Philippine currency (PhP12,813,523.11) to that of Nine Million One Hundred Thirty Four Thousand One Hundred Ninety Four and 73/100, Philippine currency (PhP9,134,194.73) owing to the NGCP-verified decrease of the line segment from that of 31.83 kilometers to that of 18.58 kilometers;

b. An increase in the cost of the Naguilian-Gammu-Ilagan 69 kV line segment, from the amount of Three Million Five Hundred Fifty Seven Thousand Nine Hundred Seventy One and 22/100, Philippine currency (PhP3,557,971.22), to that of Five Million Five Hundred Thousand Nine Hundred Twenty Four Pesos and 59/100, Philippine currency (PhP5,500,924.59) owing to the NGCP-verified increase of the line segment from that of 9.69 kilometers to that of 14.85 kilometers; and,

c. The imposition of a twelve percent value-added tax (12% VAT) on the cost of sub-transmission assets and on the interest thereon, pursuant to the Bureau of Internal Revenue's Memorandum Circular No. 66-2013 dated 30 September 2013, and Revenue Regulation No. 04-2007 dated 07 February 2007, respectively.

14. With the above changes, the subject sub-transmission assets were valued at Ninety Three Million Seventy Thousand Five Hundred Twenty Nine and 25/100, Philippine currency (PhP93,070,529.25), net of adjustments and deductions, as per the Sinclair Knight Merz (SKM) valuation (Annex "K") pursuant to ERC Resolution No. 01, Series of 2009, as Amended.

15. However, the Honorable Commission issued a Decision dated 23 March 2015 under ERC Case No. 2014-086 MC, entitled "In the Matter of the Petition for Approval of the Reclassification of the National Transmission Corporation (TRANSCO)'s 69 kV Gamu-Naguilian Sub-transmission Asset to Full Transmission Asset," the dispositive portion of which reads, as follows:

WHEREFORE, the foregoing premises considered, the application filed by the Green Future Innovations, Inc. (GFI) for the approval of the reclassification of the 69 kV Gamu-Naguilian sub-transmission asset to full transmission asset is hereby **APPROVED**. Further, the Commission, *motu proprio*, resolves to reclassify the other sub-transmission assets; the Santiago-Cauayan 69 kV line, the Cauyan-Reina Mercedes 69 kV line and the Naguilian-Reina Mercedes 69 kV are hereby reclassified as transmission assets.

SO ORDERED. "

16. With the reclassification of the Gamu-Naguilian line segment, only the portion from Upi to Ilagan of the Naguilian-Gamu-Ilagan 69kV line originally included in the Amended Lease Purchase Agreement retains its classification as a sub-transmission asset.

17. Thus, from the original length of 14.85 km. for the Naguilian-Gamu-Ilagan 69kV line valued at PhP 9,029,977.86, the portion corresponding to the segment from Upi to Ilagan Substation has now been reduced to 5.903 km. with the present value of Three Million Five Hundred Eighty Nine Thousand Four Hundred Ninety Two and 21/100, Philippine currency (PhP 3,589,492.21).

18. By way of adherence to the above-cited Decision, TRANSCO and ISELCO II executed on 20 October 2017 a Second Amendment to the Lease Purchase Agreement (Annex "L")

19. The contract price is now pegged at Eighty Seven Million Six Hundred Thirty Thousand Forty Three and 60/100, Philippine currency (PhP87,630,043.60), plus 12% VAT for the following sub-transmission assets:
- a. Tap Gannu-Roxas 69 kV line;
 - b. Tuguegarao-Cabagan 69 kV line;
 - c. Upi-Ilagan 69kV line, and,
 - d. Ilagan substation.
20. 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 "M"]; and,
 - b. Franchise Description [Annex "N"].
21. 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 Subtransmission Assets.
22. 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 interest 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** for the approval of the sale of TRANSCO's sub-transmission assets in favor of **Isabela II Electric Cooperative, Inc.** under the terms provided in the *Second Amendment of the Lease Purchase Agreement* dated 20 May 2015.

Applicants also pray for other just and equitable relief.

Finding the said *Application* sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **31 May 2018 (Thursday) at ten o'clock in the morning (10:00 A.M.) at ISELCO IT's principal office at Brgy. Alibagu, Ilagan, Isabela.**

Accordingly, TRANSCO and ISEICO II are hereby directed to:

- 1) Cause the publication of the attached Notice of Public 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;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public 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 at the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission 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 Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public 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 Public 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 Applicant to inform of the filing of the *Application*, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicants and all interested parties are also required to submit, at least five (5) days before the date of initial 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 therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicants 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 ISELCO II must also be prepared to make an expository presentation of the instant *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, what the *Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 28 February 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DYANADERA
Chairperson and CEO

Office of the Chairperson
ERC



AVSTD-2018-3-510-0031


ISMAEL G. SISON
IO_2018-09 RCISELCO IITRANSCO

Copy Furnished:

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TRANSSCO Main Building, Quezon Avenue corner BIR Road Diliman, Quezon City
2. Atty. Antonio V. Ladera IV
Counsel for ISELCO II
Isabela II Electric Cooperative, Inc. (ISELCO II)
Government Center, Alibagu
Ilagan City, Isabela
3. Atty. Melvin A. Matibag
President and CEO, TRANSSCO
TRANSSCO Main Building, Quezon Avenue corner BIR Road Diliman, Quezon City
4. Mr. Walfredo G. Binag
Board President, ISELCO II
Government Center, Alibagu
Ilagan City, Isabela
5. The Office of the Solicitor General
234 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
6. The Commission on Audit
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
7. The Committee on Energy
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
8. The Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
9. Office of the President of PCCI
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
10. Office of the Mayor
Quezon City, Metro Manila
11. Office of the Local Government Legislative Body
Quezon City, Metro Manila
12. Office of the Mayor
Ilagan City, Isabela

13. Office of the Local Government Legislative Body
Ilagan City, Isabela
14. Office of the Mayor
Sta. Maria, Isabela
15. Office of the Local Government Legislative Body
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16. Office of the Mayor
San Pablo, Isabela
17. Office of the Local Government Legislative Body
San Pablo, Isabela
18. Office of the Mayor
Cabagan, Isabela
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Cabagan, Isabela
20. Office of the Mayor
Maconacon, Isabela
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22. Office of the Mayor
Quezon, Isabela
23. Office of the Local Government Legislative Body
Quezon, Isabela
24. Office of the Mayor
Santo Tomas, Isabela
25. Office of the Local Government Legislative Body
Santo Tomas, Isabela
26. Office of the Mayor
Tumauini, Isabela
27. Office of the Local Government Legislative Body
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28. Office of the Mayor
Divilacan, Isabela
29. Office of the Local Government Legislative Body
Divilacan, Isabela
30. Office of the Mayor
Delfin Albano, Isabela

31. Office of the Local Government Legislative Body
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32. Office of the Mayor
Mallig, Isabela
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Quirino, Isabela
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San Manuel, Isabela
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Burgos, Isabela
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Gamnu, Isabela
45. Office of the Local Government Legislative Body
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Naguilian, Isabela
47. Office of the Local Government Legislative Body
Naguilian, Isabela
48. Office of the Mayor
Benito Soliven, Isabela

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San Mariano, Isabela
51. Office of the Local Government Legislative Body
San Mariano, Isabela
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Palanan, Isabela
53. Office of the Local Government Legislative Body
Palanan, Isabela
54. Office of the Mayor
Dinapigue, Isabela
55. Office of the Local Government Legislative Body
Dinapigue, Isabela
56. Office of the Governor
Province of Isabela
57. Office of the Local Government Legislative Body
Province of Isabela
58. Regulatory Operations Service (ROS)
Energy Regulatory Commission

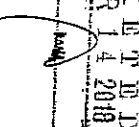
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x-----x

D O C K E T I D
Date: MAR 14 2018
By: 

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 25 January 2018, National Transmission Corporation (TRANSCO) and Isabela II Electric Cooperative, Inc. (ISELCO II) filed an *Application* dated 24 November 2017 (Application) for the sale of various sub-transmission lines/assets of TRANSCO to ISELCO II, as covered by an amended Lease Purchase Agreement (LPA).

TRANSCO and ISELCO II alleged the following in its Application:

1. TransCo is a government-owned and controlled corporation 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.
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Adopting the Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Subtransmission 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 are sub-transmission assets:

- a. Tap Gammu-Roxas 69 kV line;
- b. Tuguegarao-Cabagan 69 kV line;
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Copies of the Report on the Nature of the Assets, List of STAs for Sale to ISELCO II and the Single Line Diagram are attached as Annexes "B", "C" and "D," respectively.

9. TRANSCO has clearly established that ISELCO II meets the financial and technical capability criteria under Article IV of the ERC Guidelines in acquiring, operating, maintaining, upgrading and expanding the said STAs.

Attached are copies of the *Financial Qualification Evaluation* [Annex "E"] *Technical Qualification Evaluation* [Annex "F"] and *Audited Financial Statements of ISELCO II* as of 31 December 2012 and 31 December 2013 [Annex "G"].

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Philippine currency (PhP12,813,523.11) to that of Nine Million One Hundred Thirty Four Thousand One Hundred Ninety Four and 73/100, Philippine currency (PhP9,134,194.73) owing to the NGCP-verified decrease of the line segment from that of 31.83 kilometers to that of 18.58 kilometers;

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c. The imposition of a twelve percent value-added tax (12% VAT) on the cost of sub-transmission assets and on the interest thereon, pursuant to the Bureau of Internal Revenue's Memorandum Circular No. 66-2013 dated 30 September 2013, and Revenue Regulation No. 04-2007 dated 07 February 2007, respectively.

14. With the above changes, the subject sub-transmission assets were valued at Ninety Three Million Seventy Thousand Five Hundred Twenty Nine and 25/100, Philippine currency (PhP93,070,529.25), net of adjustments and deductions, as per the Sinclair Knight Merz (SKM) valuation (Annex "K") pursuant to ERC Resolution No. 01, Series of 2009, as Amended.

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WHEREFORE, the foregoing premises considered, the application filed by the Green Future Innovations, Inc. (GFI) for the approval of the reclassification of the 69 kV Gamu-Naguilian sub-transmission asset to full transmission asset is hereby **APPROVED**. Further, the Commission, *motu proprio*, resolves to reclassify the other sub-transmission assets; the Santiago-Cauayan 69 kV line, the Cauayan-Reina Mercedes 69 kV line and the Naguilian-Reina Mercedes 69 kV are hereby reclassified as transmission assets.

SO ORDERED."

16. With the reclassification of the Gamu-Naguilian line segment, only the portion from Upi to Ilagan of the Naguilian-Gamu-Ilagan 69kV line originally included in the Amended Lease Purchase Agreement retains its classification as a sub-transmission asset.
17. Thus, from the original length of 14.85 km. for the Naguilian-Gamu-Ilagan 69kV line valued at PhP9,029,977.86, the portion corresponding to the segment from Upi to Ilagan Substation has now been reduced to 5.903 km. with the present value of Three Million Five Hundred Eighty Nine Thousand Four Hundred Ninety Two and 21/100, Philippine currency (PhP 3,589,492.21).
18. By way of adherence to the above-cited Decision, TRANSSCO and ISEICO II executed on 20 October 2017 a Second Amendment to the Lease Purchase Agreement (Annex "L")
19. The contract price is now pegged at Eighty Seven Million Six Hundred Thirty Thousand Forty Three and 60/100, Philippine currency (PhP87,630,043.60), plus 12% VAT for the following sub-transmission assets:
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20. 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 "M"]; and,
 - b. Franchise Description [Annex "N"].
21. The proposed sale has satisfied all of the requirements and criteria set by the EPIRA and its IRR, as well as the ERC and TRANSSCO Guidelines on the Sale of Subtransmission Assets.
22. 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 interest 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 for the approval of the sale of TRANSSCO's sub-transmission assets in favor of Isabela II Electric Cooperative, Inc. under the terms

provided in the Second Amendment of the Lease Purchase Agreement dated 20 May 2015.

Applicants also pray for other just and equitable relief.

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **31 May 2018 (Thursday) at ten o'clock in the morning (10:00 A.M.) at ISELCO II's principal office at Brgy. Alibagu, Itagan, Isabela.**

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- i. The petitioner's name and address;
- ii. 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
- iii. A statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Applicants rest their case, subject to the requirements under Rule 9 of the 2006 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 and address of such person;
- 2) A concise statement of the Opposition or Comment; and

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NOTICE OF PUBLIC HEARING/28 FEBRUARY 2018
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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, 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.

WITNESS, the Honorable Chairperson and CEO, AGNES VST DEVANADERA, and the Honorable Commissioners, ALFREDO J. NON, GIORIA VICTORIA C. YAP-TARUC, and GERONIMO D. STA. ANA, Energy Regulatory Commission, this 28th day of February 2018 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal