

TRANSCO PROPOSED AMENDMENT TO R.A. 9136 (EPIRA LAW)

Issue	Specific Provision Affected	Proposed Amendment	Discussion Of Proposal
Options and inputs in addressing the Ancillary services	<p>Section 8, Sentence 2, Paragraph 1. Creation of the National Transmission Corporation. xxx xxx</p> <p>The TransCo shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services.</p>	<p>That Sentence 2, Paragraph 1, Section 8 of EPIRA be amended to " The <i>TransCo and or its concessionaire or successor-in-interest</i> shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and <i>the provision and/or procurement and dispatch of</i> ancillary services";</p>	
Strengthen the legal basis for assignments such as being the FIT ALL Fund Administrator which are legally mandated.	<p>Section 9. Functions and Responsibility</p>	<p>Addition of another function stating, <i>(g) And such other functions and responsibilities that may legally be mandated.</i></p>	
Minor corrections to make the provision consistent with RA 9511	<p>Sec. 9, d</p>	<p>Suggest to include the word "Concessionaire" or to read as "xxx Provided, that <i>The TransCo AND/OR ITS CONCESSIONAIRE</i> shall submit any plan xxx</p>	
Minor corrections to make the provision consistent with RA 9511	<p>Sec. 9, e</p>	<p>Suggest to include the word "Concessionaire" or to read as:</p> <p>"xxx Taking into account any outstanding Bilateral Contracts, the Grid System Operator of the <i>TRANSCO AND/ITS CONCESSIONAIRE SHALL PROVIDE</i> xxx"</p>	

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		<p>Provided, however, that such Operator shall be allowed to spin-off using <i>TransCo AND/OR ITS CONCESSIONAIRE'S SYSTEM OPERATION CHARGES xxx</i>"</p>	
<p>Minor corrections to make the provision consistent with RA 9511</p>	<p>Section 9, f</p>	<p>Suggest to include the word "Concessionaire" or to read as:</p> <p>"(f) The <i>TRANSCO AND/OR ITS CONCESSIONAIRE</i> JOINTLY WITH THE DOE xxx</p> <p>In the preparation AND FORMULATION of the TDP, THE <i>TRANSCO AND/ITS CONCESSIONAIRE AND THE DOE shall xxx</i>"</p>	
<p>Compensation package of TransCo personnel remain unchanged since the corporation's inception in 2001.</p>	<p><i>Section 12. Powers and duties of the TransCo Board.</i> The following are the powers of the Board:</p> <p>(a) xxx</p> <p>(c) to organize, re-organize, and determine the organizational structure and staffing pattern of TransCo; abolish and create offices and positions; fix the number of its officers and employees; transfer and re-align such officers and personnel; fix their compensation, allowance and benefits;</p>	<p><i>Provision on the approval process for the adjustment in the compensation of TransCo Personnel inasmuch as no adjustment in compensation has been given to the employee since 2001.</i></p>	<p>We posit that Section 64 is in conflict with one of the functions delegated to the TransCo Board as stated in Section 12 entitled "Powers and Duties of the Board". Among the functions of the TransCo Board stated in Item (c) of Section 12 are "to organize, re-organize, and determine the organizational structure and staffing pattern of TransCo; abolish and create offices and positions and positions; fix the number of its officers and</p>

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	<p>(d) To fix the compensation of the President of TransCo and to appoint and fix the compensation of other corporate officers;</p> <p>xxxx</p>		<p>employees; transfer and re-align such officers and personnel; fix their compensation, allowance and benefits.”</p> <p>The conflict arising from the mentioned EPIRA sections has basically caused the compensation package of TransCo personnel to remain unchanged since the corporation’s inception in 2001. Though we recognize that Section 64 intends to instill fiscal discipline with respect to the adjustments to the compensation of Transco personnel, we believe that the TransCo Board can ably evaluate the factors justifying merit increase such as escalation in the cost of living and industry salary competitiveness. Moreover, TransCo’s operating expenses are also regulated by the Energy Regulatory Commission (ERC) giving additional form of oversight on this budgetary item.</p>

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Inputs in addressing Ancillary Services	<p>Section 12 (b), Rule 6, Part II of the EPIRA IRR (b) Transmission Charges and fees for Ancillary Services shall be fixed by the ERC</p>	<p>That Section 12 (b), rule 6, Part II of the EPIRA IRR should be amended to “<i>Transmission charges and fees for ancillary services shall be subject to ERC approval.</i>”</p>	
Clear provision on the share of TransCo in the Concession Fee	<p>SEC. 18. Profits. The net profit, if any, of TRANSCO shall be remitted to the PSALM Corp. Not later than ninety (90) days after the immediately preceding quarter.</p>	<p><i>Provision for a share of TransCo in the Concession Fee</i></p>	<p>To cover the operation expenses of TransCo in concession management including the payment of ROW obligation of TransCo.</p>
TransCo want to engage in any business to generate its own income except for the rights transferred to its Concessionaire	<p>Section 20. TransCo Related Business</p>	<p>Suggest to include the word “Concessionaire” or to read as: Section 20, TRANSCO AND/OR ITS CONCESSIONAIRE’S Related Business. The TRANSCO AND/OR ITS CONCESSIONAIRE <i>[may] is hereby Authorized</i> xxx”</p>	<p>Following its privatization, TransCo may engage into any business so long as it does not run counter with any and all rights transferred to its Concessionaire. This is to allow TransCo to generate its own income and augment its funds.</p>
Strengthen the provision on the imposition of penalty and involved other appropriate agency which have jurisdiction on the same	<p>Section 21. TransCo Privatization (par. 2 , last sentence)</p>	<p>The imposition of penalty should not be solely with the ERC. The provision should read: “xxx The failure of the awardee to comply with any of such guarantees or covenants shall constitute xxx <i>cancellation of the contract of sale of the concession contract in accordance with the terms and conditions thereof</i> and the</p>	

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		imposition of appropriate sanctions, fines or penalties <i>by the Energy Regulatory Commission and/or as recommended by the DOE and other appropriate government agency which may have jurisdiction over the same.</i> "	
	Section 31. Retail Competition and Open Access (par. D)		The provision is already moot.
Minor corrections to make the provision consistent with RA9511	Section 34 (e). Universal Charge	Suggest to include the word "Concessionaire" or to read as: "xxx Collections by the distribution utilities and the <i>TransCo and/or its Concessionaire</i> in any given billing month shall be managed by NPC xxx"	
	Section 47. NPC Privatization – Except for the assets of SPUG, the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act.	That the first sentence of Paragraph 1 of Section 47 of the EPIRA be amended to " <i>All generation assets, real estate and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act except for the assets of SPUG and generation plants dedicated for the provision of long-term Ancillary Services, as shall be determined by the ERC with the recommendation of the System Operator and in accordance with the Grid Code xxx</i> "	
Options and inputs in addressing	Section 47- NPC Privatization	That Section 47 (j) be amended to:	

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Ancillary Services	(j) NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corporation and shall not incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers.	"NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corporation and shall not incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers <i>except in relation to the provision of long-term Ancillary Services, the level of which shall be determined by the ERC with the recommendation of the System Operator and in accordance with the Grid Code.</i> "	
		That a new sub-paragraph (k) be added to Section 47 of the EPIRA stating: <i>"NPC shall continue to operate, maintain and expand generation plants dedicated primarily for the provision of long-term Ancillary Services. The long-term Ancillary Services provided by NPC or contracted with generation companies shall be determined by the ERC with the recommendation of the System Operator and in accordance with the Grid code. Appropriate Charges for the just recovery of the costs associated with the provision of Ancillary Services shall likewise be determined by the ERC.</i>	
Continuity of management when the Concession Contract expires and legal basis of Concern	Section 50. Purpose and Objective, Domicile and Term of Existence. The PSALM Corp. shall exist for the period of twenty five	<i>Provision for TransCo's take over of the Concession Agreement upon expiration of PSALM's term of existence (25 years and for the reason as prescribed in Section 5 of RA 9511</i>	To ensure continuity of the management of concession and evaluation for renewal of concession To ensure immediate

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<p>Agency in executing immediate response during the national emergency</p>	<p>(25) years from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government.</p>	<p><i>and Section 17 of the 1987 Constitution to be authorized by the President of the Philippines in times of emergency, when the public interest so requires.</i></p> <p><i>Provision which specifies that the funding source for emergency undertaking shall be authorized/provided by the national government thru the President of the Republic of the Philippines.</i></p>	<p>response during national emergency (management of operation and rehabilitation of the transmission system)</p>
<p>Separation Benefits of TransCo Residual employees</p>	<p>Section 63. Separation Benefits of Officials and Employees of Affected Agencies.</p> <p>National Government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, shall be entitled to either a separation pay and other benefits in accordance to existing laws, rules and regulations or be entitled to avail of the privileges provided under a separation plan which shall be one and one-half month salary for every year of the government: Provided, however, That those who avail of such privileges shall</p>	<p><i>Specific provision for the payment of separation benefits of TransCo Residual employees as a result of reorganization.</i></p>	<p>To provide separation benefits to TransCo Residual personnel. No separation benefits were given to the latter as a result of the privatization of the operation and maintenance of TransCo Assets.</p>

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	<p>start their government service anew if absorbed by any government-owned successor company. In no case shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization.</p>		
<p>Additional provision to address the implementation TransCo compensation and benefits</p>	<p>Section 64. Fiscal Prudence.- To promote the prudent management of government resources the creation of new positions and benefits of TransCo and PSALM Corporation personnel shall be subject to the approval of the President of the Philippines. The compensation and all other emoluments and benefits of the officials and members of the Board of TransCo and PSALM Corporation shall be subject to the approval of the President of the Philippines</p>	<p>That Section 64. Fiscal Prudence be amended to conform with Sec. 12 and should read as follows:</p> <p>“To promote the prudent management of government resources, the creation of new positions and benefits of TransCo and PSALM Corporation for their respective personnel including the compensation and all other emoluments and benefits of the officials and members of the Board of TransCo and PSALM Corporation <i>shall be fixed by their respective Boards.</i>”</p>	