

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



IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE POWER SALES CONTRACT BETWEEN SPC ISLAND POWER CORPORATION (SIPC) AND ILOILO I ELECTRIC COOPERATIVE, INC. (ILECO I) WITH MOTION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY,

ERC CASE NO. 2012-030 RC

SPC ISLAND POWER CORPORATION (SIPC) AND ILOILO I ELECTRIC COOPERATIVE, INC. (ILECO I),

Applicants.

X-----X

D O C K E T E D
Date: **NOV 09 2017**
By: *[Signature]*

ORDER

Before the Commission for resolution is the *Ex Parte Manifestation Re: Extension of Power Sales Contract* dated 28 July 2017 (Manifestation) filed on 20 July 2017 by Applicants SPC Island Power Corporation (SIPC) and Iloilo I Electric Cooperative, Inc. (ILECO I).

On 05 March 2012, SIPC and ILECO I filed their *Application* for the approval of their Power Sales Contract (PSC).

On 10 May 2012, the Commission issued an *Order* granting provisional authority to Applicants, the dispositive portion of which reads:

WHEREFORE, the foregoing premises considered, the Commission hereby **PROVISIONALLY APPROVES** the Power Sales Contract (PSC) between SPC Island Power

Corporation (SIPC) and Iloilo I Electric Cooperative, Inc. (ILECO I).

Accordingly, ILECO I is hereby authorized to source its power requirements from SIPC in accordance with their PSC, subject to the following conditions:

1. Approved Base Rate

COMPONENT	PhP/kWh
CRF	0.9645
Fixed O&M	0.6023
Variable O&M	0.6705
Fuel Fee	Pass-through cost to be computed based on fuel consumption rate of 0.2561 li/kWh or actual, whichever is lower.

2. The final generation cost that can be recovered shall be determined by the Commission in its final decision in the instant application; and
3. In the event that the rates provisionally approved are found to be higher than the final rates, the amount corresponding to the excess shall be refunded by ILECO I to its customers by crediting the same in their electric bills over a period to be determined by the Commission.

SO ORDERED.

On 18 February 2013, the Commission issued an *Order* extending the provisional authority granted to the Applicants until the same is revoked or made permanent by the Commission.

On 20 July 2017, SIPC and ILECO I filed the instant *Manifestation*, respectfully stating that:

1. SPC Island Power Corporation (SIPC), as Seller, and Iloilo I Electric Cooperative, Inc. (ILECO I), as Buyer, are parties to a Power Sales Contract dated April 13, 2011 ("*PSC*"), which became effective on August 8, 2012, pursuant to which the Buyer agreed to buy electric energy from the Seller, and the Seller agreed to deliver such electricity to the Buyer, under the terms and conditions specified therein, and for a term of five (5) years expiring on August 8, 2017.

2. Article 3.2.C and Article 13.1.a of the PSC provides for an extension of the term of the contract “by mutual agreement of the Parties in writing.
3. Resolution No.1 Series of 2016 dated March 15, 2016, of the Energy Regulatory Commission, in particular rule (a) of item no. 3 thereof, provides that:

3. In reference to PSA's with provisions allowing the automatic renewal or extension of their term, whether or not such renewal or extension requires the intervention of the parties thereto, the following rules shall apply:

(a) PSAs that were approved by the Commission or filed with ERC before the effectivity of this Resolution may have one (1) automatic renewal or extension for a period not exceeding one (1) year from the end of their respective terms.

4. In ERC Case No. 2012-030 RC, the Honorable Commission provisionally approved the PSC on May 10, 2012, which was prior to the effectivity of ERC Resolution No.1, series of 2016, on April 30, 2016.
5. SIPC, as Seller, offered to extend the term of the PSC, under the same terms and conditions of the provisionally approved PSC.
6. After a comprehensive evaluation and deliberation of the economic impact of the offer, ILECO I, as Buyer, accepted SIPC's offer.
7. Accordingly, SIPC and ILECO I executed a **Supplemental to the Power Sales Contract dated July 11, 2017**, with the following relevant provision:

2.1 Effectivity: This Supplemental Agreement shall take effect on **August 8, 2017 up to the Extended Schedule Termination Date on August 8, 2018.**

An original duplicate copy of the Supplemental to the Power Sales Contract dated July 11, 2017 is attached to the original of this Manifestation.

8. Therefore, SIPC and ILECO I request the Honorable Commission to NOTE their agreement to extend the PSC until August 8, 2018.

A perusal of the instant case reveals that the Applicants' PSC has a term of five (5) years effective on 08 August 2012. Thus, it expired on 07 August 2017.

Relative to the instant *Manifestation*, Sections 3.2 and 13.1 of Applicants' PSC allows a renewal thereof upon mutual agreement of the parties in writing, to wit:

ARTICLE 3- EFFECTIVE DATE AND TERM

xxx

3.2. Term.

The term of this Contract shall be for five (years) to commence on the Agreed Date that is April 26, 2011, and end on the Scheduled Termination Date, subject to renewal by agreement of both Parties. x x x

xxx

ARTICLE 13- TERMINATION

13.1 Generally.

This Contract shall terminate on the Scheduled Termination Date unless otherwise renewed by mutual agreement of the Parties in writing. xxx

xxx

Likewise, in their *Manifestation*, Applicants attached thereto Board Resolution No. 2017-162 of Applicant ILECO I approving the extension of its PSC with SIPC for a period of one (1) year, and the Supplement to the Power Sales Contract dated 11 July 2017 containing the agreement of the Applicants to extend the term of their PSC for a period of one year from 08 August 2017 to 08 August 2018.

The Commission finds the attached submissions compliant with the requirements of Sections 3.2. and 13.1 of Applicants' PSC, and the provisions of the Commission's Resolution No. 01, Series of 2016¹, particularly, the provision governing the renewal and extension of Power Supply Agreements (PSAs), to wit:

¹ Entitled, "A Resolution Clarifying the Effectivity of ERC Resolution No. 13, Series of 2015". dated 15 March 2016.

3. In reference to PSAs with provisions allowing the automatic renewal or extension of their term, whether or not such renewal or extension requires the intervention of the parties thereto, the following rules shall apply:

- a. PSAs that were approved by the Commission or filed with the ERC before the effectivity of this Resolution may **have one (1) automatic renewal or extension for a period not exceeding one (1) year from the end of their respective terms;** (Emphasis supplied.)
- b. Automatic renewal clauses or extension of PSAs shall no longer be permitted upon effectivity of this Resolution².

WHEREFORE, the foregoing premises considered, the *Ex Parte Manifestation Re: Extension of Power Sales Contract* dated 28 July 2017 filed on 20 July 2017 by Applicants SPC Island Power Corporation (SPC) and Iloilo I Electric Cooperative, Inc. (ILECO I) is hereby **NOTED**.

(This space is intentionally left blank.)

² Ibid.

ACCORDINGLY, the extension of the term of the Applicants PSC for a period of one (1) year from 08 August 2017 to 08 August 2018 is hereby **GRANTED**.

Finally, Applicants are **ENJOINED** to observe full compliance with the provisions of the Commission's Resolution No. 01, Series of 2016³.

SO ORDERED.

Pasig City, 15 August 2017.

JOSE VICENTE B. SALAZAR*
Chairman and CEO


ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


GERONIMO D. STA. ANA
Commissioner

LS: /HH/LS/APV

³ Ibid.

* The Chairman was suspended as per Decision of the Office of the President (OP-DC Case No. 17-D-094) dated 2 August 2017.

Copy Furnished:

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