

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



**IN THE MATTER OF THE  
APPLICATION FOR THE  
APPROVAL OF THE  
EMERGENCY POWER SUPPLY  
AGREEMENT (EPSA)  
BETWEEN ISABELA I  
ELECTRIC COOPERATIVE,  
INC. (ISELCO I) AND  
STRATEGIC POWER DEVT.  
CORP. (SPDC), WITH PRAYER  
FOR CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2019-044 RC**

**ISABELA I ELECTRIC  
COOPERATIVE, INC. (ISELCO  
I) AND STRATEGIC POWER  
DEVT. CORP. (SPDC),  
*Applicants.***

**Promulgated:**  
September 02, 2020

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**ORDER**

Before this Commission for resolution is the motion for confidential treatment of information filed by Isabela I Electric Cooperative, Inc. (ISELCO I) and Strategic Power Devt. Corp. (SPDC), pursuant to Rule 4 of the Commission's Rules of Practice and Procedure (RPP).

On 07 June 2019, ISELCO I and SPDC filed a *Joint Application* for the approval of their Emergency Power Supply Agreement (EPSA).

In the said application, the Applicants moved, among others, that certain documents/information be considered confidential in accordance with Rule 4 of the Commission's RPP.

Based on the records of the Commission, the EPSA had a contract term of one (1) year that started on 26 February 2019, and ended on 25 February 2020.

### **Discussion**

Sections 1 and 2, Rule 4 of the Commission's RPP provide that:

**Section 1. Request for Confidential Treatment of Information.** A party to any proceeding before the Commission may request that information about that party in the Commission's possession not be disclosed. To do so, said party shall:

- (a) Submit a request that information not be disclosed describing therein with particularity the information to be treated as confidential; specifying the grounds for the claim of confidential treatment of the information and, if applicable, specifying the period during which the information must not be disclosed.
- (b) Submit to the Commission one copy of the document that contains the information sought to be treated as confidential, placed in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential".

x      x      x

The party seeking to have the information protected from disclosure has the burden of proof to demonstrate that the information sought to be disclosed is entitled to that protection.

### **Section 2. Action by the Commission on the Request.**

– For the purpose of determining whether or not to accord confidential treatment to information, the Commission may review the information claimed to be confidential.

The Commission may deny the request for confidential treatment of information on grounds such as, but not limited to the following:

- (a) The party requesting confidential treatment of information has no actual, valuable proprietary interest to protect with respect to the information sought to be treated as confidential.
- (b) The information is, at the time of the request, generally available to the public by means other than through a breach of any confidentiality obligation with respect to such information.

- (c) The information is, at the time of the request, available to or already in the possession of the Commission on a non-confidential basis from a source that, to the knowledge of the Commission, has lawfully acquired such information on a non-confidential basis.

X X X

Under the aforesaid Rules, a party to any proceeding before the Commission may request the same not to disclose certain information and treat such information confidential, specifying the grounds for the claim of confidential treatment of the information and, if applicable, specifying the period during which the information must not be disclosed. To determine whether or not to approve said request, the Commission may review the information claimed to be confidential pursuant to Section 2 of the same Rules.

The Commission, however, in resolving motions of this nature, has fixed the effectivity period of the treatment of confidentiality up to the end or termination of the power supply agreement.

It must be noted that based on the records of the Commission, the contract term of the EPSA subject of the instant case has already ended. In as much as the Commission allows confidential treatment of certain information during the term of the EPSA, the Commission is constrained to declare the motion in the instant case moot and academic in view of the expired contract term.

The Supreme Court, in the case of *Antonio B. Gunsí, Sr. v. The Honorable Commissioners, Commission on Elections and Datu Israel Sinsuat*<sup>1</sup>, defined a moot and academic case as “one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value.”

While the Commission declared the motion moot and academic, the Commission’s personnel who have access to the documents related to the instant case are cautioned and reminded to exercise utmost discretion in handling and safekeeping the documents. Moreover, any request to peruse or copy the documents must be made in accordance with applicable protocol and procedures and with prior approval of the Commission.

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<sup>1</sup> G.R. No. 168792, 23 February 2009;

Relative thereto, the Commission's *Freedom of Information (FOI) Manual*<sup>2</sup>, in relation to Executive Order No. 02, Series of 2016<sup>3</sup> (EO No. 02) on the People's Constitutional Right to Information, outlines the standard procedure to be observed in requesting information under the custody of the Commission. Thus, any request to peruse or copy the documents must follow the applicable procedures stated in the *FOI Manual* of the Commission.


**WHEREFORE**, the foregoing premises considered, the Commission hereby declares the motion for confidential treatment of information of Isabela I Electric Cooperative, Inc. (ISELCO I) and Strategic Power Devt. Corp. (SPDC), in the instant case **MOOT AND ACADEMIC**.

Nevertheless, the Commission's personnel who have custody of the documents related to the instant case are hereby reminded to exercise utmost discretion in handling and safekeeping the documents. Any request to peruse or copy the documents must follow the applicable procedures stated in the *FOI Manual* of the Commission.

**SO ORDERED.**

Pasig City, 04 August 2020.

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
**ALEXIS M. LUMBATAN**  
*Commissioner*

  
**CATHERINE P. MACEDA**  
*Commissioner*

  
**FLORESINDA G. BALDO-DIGAL**  
*Commissioner*

  
**MARKO ROMEO L. FUENTES**  
*Commissioner*

  
LS: KMS/ARG/MCCG

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<sup>2</sup> Issued in November 2016; and

<sup>3</sup> Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor.

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