

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



**IN THE MATTER OF THE
APPLICATION FOR AUTHORITY TO
DEVELOP, OWN AND OPERATE
DEDICATED POINT-TO-POINT
LIMITED FACILITIES TO CONNECT
TO THE DISTRIBUTION SYSTEM OF
MANILA ELECTRIC COMPANY
(MERALCO), WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2012-042 MC

THERMA MOBILE, INC. (TMO),
Applicant.
x-----x

D O C K E T E D
Date: JAN 11 2013
By: [Signature]

O R D E R

Before the Commission for resolution is the "Compliance with Motion to Treat Information as Confidential" filed on October 8, 2012 by Therma Mobile, Inc. (TMO).

In the said motion, TMO alleged, among others, that:

1. It submitted its Distribution Impact Study (DIS) containing the evaluation and results of its feasibility study regarding the development of a dedicated point-to-point limited facility and its connection to the distribution system of the Manila Electric Company (MERALCO);
2. In accordance with Rule 4 of the Commission's Rules of Practice and Procedure, it prays that a protective order be issued declaring the DIS as confidential information to prevent its disclosure to unintended recipients and to protect MERALCO against unauthorized use of the information in the DIS;
3. Based on the terms and condition in conducting the DIS, it is bound to keep the information therein confidential. Its non-disclosure obligation is also provided for in Section 2.10.9 of the Distribution Services and Open Access Rules (DSOAR);

4. While it is under a non-disclosure obligation, it may submit the DIS provided that it is required by the Commission and accompanied by a motion for confidential treatment;
5. The information contained in the DIS is, presently, not generally available to the public and not in the possession of the Commission; and
6. MERALCO may have proprietary and valuable interest to protect with respect to the information contained in the DIS.

DISCUSSION

The Commission perused the document sought to be treated as confidential and found no cogent reason to treat it as such.

TMO and MERALCO may have a right to protect their proprietary or business concern with regard to the DIS. However, such fact alone cannot outweigh the paramount duty of the State to protect and uphold public interest by ensuring "transparent and reasonable prices of electricity" pursuant to Section 2 (c) and (f) of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 (EPIRA)". Thus, those who will ultimately be burdened or affected as a result of TMO or MERALCO's operation should not be deprived of their right to have access to any information contained therein.

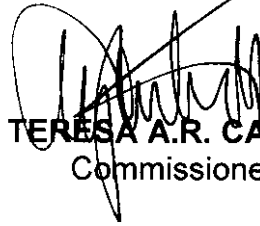
The Commission believes that TMO and even MERALCO will not be unduly prejudiced by the public disclosure of the DIS sought to be treated as confidential since there are other legal remedies available to ensure its protection from the unauthorized use thereof.

WHEREFORE, the foregoing premises considered, the "Motion to Treat Information as Confidential" filed by Therma Mobile, Inc. (TMO) is hereby **DENIED** for lack of merit.

SO ORDERED.

Pasig City, January 3, 2013.

FOR AND BY AUTHORITY
OF THE COMMISSION:



MARIA TERESA A.R. CASTAÑEDA
Commissioner

Copy Furnished:

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