

**ITCHON, Joseph Nathan C.**  
**Re: Query; Absences Incurred**  
**as State Witness**

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**RESOLUTION NO. 01-1054**

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Juan Carlos J. Guadarrama, Officer-in-Charge, Human Resource and Administration, National Power Corporation (NPC), Quezon City, requests an opinion or advice with regard to the absences incurred by one of their employees who is the husband of a state witness in a very high profile case. Pertinent portions of Guadarrama's letter state:

*"This refers to the attached letter of Atty. Phillip Aguinaldo, Director, Witness Protection Security Benefit Program, Department of Justice, x x x*

*"He stated that Mr. JOSEPH NATHAN C. ITCHON, HR Specialist, HRSD, NPC, has incurred absences from work on December 11-15, 18-22, 26-29, 2000, the whole month of January and February 1, 4-8 and 11-15, 2001. The absences have been necessitated by the fact that, together with his wife Mrs. Ma. Carmencita Itchon, he has gone into hiding for security reasons as a result of testimony given by his wife in the Blue Ribbon Committee and during the Impeachment Trial against former President Joseph Ejercito Estrada.*

*"For this reason, he is recommending that all the said absences incurred by Joseph Nathan C. Itchon, husband of Ma. Carmencita Itchon, including those which he will incur in the future until their lives normalize should not be charged against his leave credits and further, that he be allowed to draw his salaries for this period.*

x x x

*"He explained that although Mr. Itchon is not the witness covered by your program, he is construing the provision 'liberally to apply to him, because the admission of the witness protection program is premised on the fact that he or any member of his family within the second degree of consanguinity or affinity is subjected to threats to his life or bodily injury x x x'*

*“We fully understand the situation of Mr. Itchon and the reasons behind his continued inability to report to work. We informed him, however, that the existing civil service rules on leaves and absences does not give us sufficient basis to consider your recommendation immediately.”*

The issue presented by the Department of Justice (DOJ) is whether the husband of a state witness may be accorded the same rights and benefits provided for under **Republic Act (RA) No. 6981 (Witness Protection, Security and Benefit Act)**, specifically on the right to be paid his salaries or wages corresponding to absences in work incurred due to witness duties.

**Paragraph (c), Section 8 of RA No. 6981** provides:

*“In no case shall the Witness be removed from or demoted in work because or on account of his absences due to his attendance before any judicial or quasi-judicial body or investigating authority, including legislative investigations in aid of legislation, in going thereto and in coming therefrom: Provided, That his employer is notified through a certification issued by the Department, within a period of thirty (30) days from the date when the Witness last reported for work: Provided, further, That in the case of prolonged transfer or permanent relocation, the employer shall have the option to remove the Witness from employment after securing clearance from the Department, upon the recommendation of the Department of Labor and Employment.”*

*“Any Witness who failed to report for work because of witness duty shall be paid his equivalent salaries or wages corresponding to the number of days of absence occasioned by the Program. For purposes of this Act, any fraction of a day shall constitute a full day salary or wage. This provision shall be applicable to both government and private employees.”*

While it is true that Itchon is not the witness himself, DOJ’s interpretation that the aforestated provision also applies to him (Itchon) carries great weight and must be accorded respect since it is the implementing agency itself which rendered the said interpretation. Hence, the Commission fully agrees with the interpretation of the DOJ.

In sum, the Commission is of the opinion that Itchon may still be paid his salaries despite being absent from work due to his situation as a member of a state witness’ immediate family, who may also be susceptible to threats to his life, or who may be forced, intimidated, harassed or corrupted.

It is noted, however, that the employer (government or private), under the law, is given the discretion or option to “*remove the Witness from employment*” due to prolonged transfer or permanent relocation, provided that the required certifications are obtained.

**WHEREFORE**, the Commission is of the opinion that Itchon is **ENTITLED** to his salaries corresponding to the absences he incurred as a result of being a family member of a state witness who is under the Witness Protection Program of the Department of Justice. Accordingly, absences incurred by Itchon shall not be charged from his leave credits.

Quezon City, **June 25, 2001**

**(SIGNED)**

**JOSE F. ERESTAIN, JR.**

Commissioner

**(SIGNED)**

**KARINA CONSTANTINO-DAVID**

Chairman

**(SIGNED)**

**J. WALDEMAR V. VALMORES**

Commissioner

Attested by:

**(SIGNED)**

**ARIEL G. RONQUILLO**

Director III

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