

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY'S FIRST INTEGRATED
RESOURCE PLAN

No.: CEPR-AP-2015-0002



RESOLUTION ON WAIVER REQUEST

On May 22, 2015, the Puerto Rico Energy Commission ("Commission" or "Energy Commission") approved and enacted Regulation No. 8594, known as the Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority ("Regulation 8594"). On that same date, the Commission issued the Order No. CEPR-MI-2015-0002, *In re: Aprobación de Reglamento sobre el Plan Integrado de Recursos*, in which we explained that said Regulation was being approved on an emergency basis due to the provisions in Act 57-2014, as amended, requiring the Puerto Rico Electric Power Authority ("PREPA") to file its first Integrated Resource Plan ("IRP") on or before July 1, 2015. Furthermore, the May 22 Order anticipated that, after considering and ruling on PREPA's first IRP, the Commission would work on the adoption of new rules to govern PREPA's subsequent IRPs, which would be enacted in accordance to the standard regulatory procedure stated in Act No. 170 of August 12, 1988, known as the Commonwealth of Puerto Rico Uniform Administrative Procedures Act.

Section 2.06 of Regulation 8594 allows PREPA to request a waiver of any of the IRP filing requirements upon a demonstration of good cause shown for any of the two following reasons: (i) PREPA is unable to obtain all the data needed to file its plan due to circumstances that are beyond its control; or (ii) the required information has already been made available to the Commission through a previous filing, in which case PREPA shall provide a citation as to where that information is available. However, only for the purposes of the first IRP, due on July 1, 2015, Section 2.06 also allows PREPA to request that the provision of select data be deferred.

Pursuant to the provisions of Section 2.06, on June 5, 2015 PREPA filed a *Solicitud de Dispensa* or Waiver Request on all or part of the information required in the following subsections and paragraphs of Regulation 8594: 2.03(A), 2.03(B)(2)(a)(ii), 2.03(B)(2)(b)(iii), 2.03(B)(2)(c)(ii) and (iii), 2.03(B)(2)(g), 2.03(B)(2)(h)(iv), 2.03(B)(3)(a), 2.03(B)(3)(b), 2.03(B)(4), 2.03(B)(6), 2.03(B)(7), 2.03(B)(8), 2.03(B)(9)(c) and (d), 2.03(B)(10), 2.03(B)(11)(viii) and (ix), 2.03(B)(13), 2.04(A), 2.04(B)(1), 2.04(B)(2)(a)(ii), 2.04(B)(2)(d)(ii), 2.04(B)(5)(d), 2.04(B)(5)(e), 2.04(B)(6)(a) and (b), 2.04(B)(6)(c) and (d), and 2.04(B)(7). The time period to file memoranda in opposition has expired without anyone filing or appearing before the Commission to that effect.

Having examined PREPA's Waiver Request, the Commission rules as follows:

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- (1) **Subsection 2.03 (A).**- PREPA argues it will not be able to obtain the data required in Subsection 2.03(A) because by its interpretation of Act 57-2014, PREPA had to present the IRP simultaneously to the Commission and the Commonwealth Energy Public Policy Office ("CEPPO"). **The waiver request is granted.** The first IRP to be filed on July 1st, 2015 should be filed to the Commission as well as the CEPPO for their comments and evaluation. Confirmation on the IRP filing to the CEPPO should be given to the Commission. Further explanation on the procedures for presenting new IRPs to the CEPPO will be provided on updated Regulation on Integrated Resource Plan.
 - (2) **Subsection 2.03(B)(2)(a)(ii).**- PREPA argues it does not have the required information because Puerto Rico has a climate that is consistent throughout the year so there are not significant variations in temperatures to analyze for peak demand between summer and winter. **The waiver request is partially granted.** Considering PREPA's argument and the purpose of the data required in the load forecast, in response to Subsection 2.03(B)(2)(a)(ii) PREPA shall provide by July 15, 2015 the monthly and annual peak utility demand for each customer class instead of the requested peak demand analysis between summer and winter.
 - (3) **Subsection 2.03(B)(2)(b)(iii).**- PREPA contends it does not have the required information since until now, PREPA's principal strategy relating to Demand Side Management (DSM) is the current tariff structure that was designed to promote efficient use and conservation of energy, which includes time of use tariffs. According to PREPA, it has promoted the conservation and efficient use of energy through education campaigns, and claims that the impact of these strategies is observable in the historic data of client demand, although not explicitly quantified. **The waiver request to subsection 2.03(B)(2)(b)(iii) is partially granted.** In the first IRP, PREPA shall provide a correlation between the DSM programs and the historic data provided. PREPA will commence accumulating and quantifying the impact of DSM programs, since this information will be required, and will not be waived, in future IRPs.
 - (4) **Subsection 2.03(B)(2)(c)(ii) and (iii).**- PREPA argues that because previous long term models did not show an annual demand growth rate of more than 1% it was not taken into account when performing the modeling. However, PREPA should be able to provide a case for a high case for load forecast, even if declining. **The waiver is granted.** PREPA shall present a high case load forecast for the updated IRP, as determined by the Commission, prior to a further IRP filing.
 - (5) **Subsection 2.03(B)(2)(g).**- PREPA states it does not have the required information. According to PREPA, its projections for energy demand are based on historic data, which is why the reduction in consumption caused by increased use of efficient equipment and appliances, and construction codes for green buildings is indirectly considered -but not explicitly quantified- in such projections. **The waiver request to subsection 2.03(B)(2)(g) is partially granted.** With regards to the first IRP filing, PREPA shall submit by July 15, 2015 an explanation of the reasons behind the



projections for energy demand. However, PREPA will commence quantifying this data, since this information will be required, and will not be waived, in further IRPs.

- (6) **Subsection 2.03(B)(2)(h)(iv).**- PREPA argues it does not have the required information because Puerto Rico has a climate that is consistent throughout the year so there are not significant variations in temperatures to analyze for peak demand between summer and winter. **The waiver request is denied.** Considering PREPA's argument and the purpose of the data required in the load forecast, in response to 2.03(B)(2)(h)(iv) PREPA shall provide instead, by July 15, 2015, the monthly and annual peak utility demand, as well as the annual peak utility demand for each customer class.
- (7) **Subsection 2.03(B)(3)(a).**- PREPA contends it does not have the required information since until now, PREPA's principal strategy relating to Demand Side Management (DSM) is the current tariff structure that was designed to promote efficient use and conservation of energy, which includes time of use tariffs. PREPA claims that the impact of these strategies is observable in the historic data of client demand although not explicitly quantified. The demand projections consider the reduction in consumption due to the installation of distributed generators and the clients' conservation and efficient use of energy efforts. **Therefore, the waiver request to Subsection 2.03(B)(3)(a) is denied.** PREPA will present a detailed description on how their strategies are used to promote efficient use and conservation of energy by July 15, 2015.
- (8) **Subsection 2.03(B)(3)(b).**- While PREPA states its IRP filing will consider the reduction of losses in all the generation, transmission and distribution systems, PREPA claims it does not have the required information because the line losses data is not explicitly quantified. **The waiver request to subsection 2.03(B)(3)(b) is denied.** In order to consider losses in the type of analysis that an IRP filing entails, those losses need to be quantified. If PREPA is assuming or contemplating no losses, it should state so. PREPA will provide this information by July 15, 2015.
- (9) **Subsection 2.03(B)(4).**- PREPA argues it does not have the required information. PREPA explains that, instead of the Planning Reserve Margin required in Regulation 8594, it uses the Loss of Load Hours (LOLH) as the criteria of reliability for planning for the generation system. Therefore, PREPA is planning to include the LOLH as the reliability criteria in its IRP filing. **The waiver request to subsection 2.03(B)(4) is denied.** The LOLH criteria can and shall be translated into an equivalent reserve margin. This reserve margin is a critical mechanism of review for alternative resource plans, and allows the Commission to review the acceptable margin required to maintain reliability. PREPA will provide this information by July 15, 2015.

(10) **Subsection 2.03(B)(6).**- PREPA claims to have only the information related to its units, and not the information related to private generators. **The waiver request to Subsection 2.03(B)(6) is granted.** However, in its IRP filing PREPA shall provide the information it has on the units of the private generators.



- (11) **Subsection 2.03(B)(7).**- PREPA contends it does not have the required information since until now, PREPA's principal strategy relating to Demand Side Management (DSM) is the current tariff structure. **The waiver request to Subsection 2.03(B)(7) is denied.** PREPA shall describe in detail the strategy used to promote efficient use and conservation of energy and present it to the Commission by July 15, 2015.
- (12) **Subsection 2.03(B)(8).**- PREPA argues that in preparing the IRP, PREPA has based its work on the list of criteria found in Section 6C (h)(iii) of Act No. 83 of May 2, 1941, as amended by Act 57-2014, which does not explicitly mention smart grid and smart metering technologies. Therefore, for the first IRP, PREPA requests a waiver from this information requirement. PREPA notes that it has, in fact, been developing several projects related to smart grid and smart metering technologies, and states that it can file the information required under this Subsection in its next scheduled IRP filing term pursuant to Act 57-2014. **The waiver request related to subsection 2.03 (B)(8) is granted.** PREPA will be required to include this information on a further IRP filing.
- (13) **Subsection 2.03(B)(9)(c) and (d).**- PREPA claims it already submitted the maps required in 2.03(B)(9)(c) and (d) in its responses to questions 75 and 76 of the Commission's Order issued on February 12, 2015 in the investigation *In re: Investigation on the Rates of the Puerto Rico Electric Power Authority*, CEPR-IN-2015-0002. **The waiver request to Subsections 2.03(B)(9)(c) and (d) is denied.** The maps required in Subsections 2.03(B)(9)(c) and (d), on a 1:250,000 scale shall be submitted as part of the IRP filing by July 15, 2015. As we have explained, If PREPA understands these maps contain confidential information, it shall (i) identify the reason why the document or information should be classified as 'confidential' or 'privileged'; (ii) and state in writing the legal bases and sources to support its argument that such information or document should be classified as 'confidential' or 'privileged'. The Commission will decide each claim, and give any party disagreeing with the Commission's decision sufficient time to seek reconsideration and go to court to prevent or require disclosure.
- (14) **Subsection 2.03(B)(10).**- PREPA argues it will not be able to obtain the data required in Subsection 2.03 (B)(10) because the penetration of distributed generation within a distribution system depends upon such a wide array of factors that it is not possible to provide a system-wide description with regard to its capacity to accept more distributed generation. According to PREPA, such an evaluation can only be made individually by means of specialized technical studies. **The waiver request related to subsection 2.03 (B)(10) is denied.** PREPA must provide, at a minimum, a characterization of its constraints within the distribution system, including where the distribution is strained (or not), by July 15, 2015.

(15) **Subsection 2.03(B)(11)(viii) and (ix).**- PREPA argues it will not be able to obtain the data required in Subsection 2.03 (B)(11)(viii) and (ix) because, among other issues (which PREPA does not specify or mention), the ownership of new generation



facilities has not been established, pending the outcome of PREPA's current restructuring process. **The waiver request related to Subsection 2.03 (B)(11)(vii) and (ix) is granted only with regard to the information concerning ownership.** The rest of the information required in this Subsection shall be submitted by July 15, 2015. Capacity contribution to peak measure is a standard reporting measure, required for planning studies. The goal is to determine the optimum resource portfolio and what it should contain.

(16) **Subsection 2.03(B)(13).**- PREPA argues that, given the time constraints of this IRP, it can only provide its DSM program implementation strategy. It contends that, because of the difference in climate and customer behavior between Puerto Rico and the United States, the programs used in those jurisdictions do not necessarily apply to Puerto Rico, and development of these programs requires lengthy empirical studies on the behavior of all of PREPA's customers. PREPA foresees that it will be able to submit the information required in Subsection 2.03 (B)(13) on the next scheduled IRP filing pursuant to Act 57-2014. **The waiver request related to subsection 2.03 (B)(13) is granted.** Information on the Development of Demand Side Resources shall be incorporated in further IRP filings.

(17) **Subsection 2.04(A).**- PREPA argues that, given the time constraints of this IRP, it can only provide its DSM program implementation strategy. Thus its IRP filing could and will include all the information required in Subsection 2.04 (A), excepting the information on demand-side resources. PREPA foresees that it will be able to submit the information required in Subsection 2.04 (A) on the next scheduled IRP filing pursuant to Act 57-2014. **The waiver request related to subsection 2.03 (B)(13) is granted.** Information on the Development of Demand Side Resources shall be included in further IRP filings.

(18) **Subsection 2.04(B)(1).**- PREPA argues it will not be able to obtain the data required in Subsection 2.04 (B)(1) because the methodology it has used for the definition of scenarios and key factors influencing the most important forecasts is different from the one established in Subsection 2.04 (B)(1). Thus, PREPA states it will present the used methodology in its IRP filing. **The waiver request related to subsection 2.04 (B)(1) is denied.** PREPA's forecast will be evaluated on its merits. Any failure in the methodology used or the results of the analysis will be addressed in the IRP review process.

(19) **Subsection 2.04(B)(2)(a)(ii).**- PREPA argues that, given the time constraints of this IRP, it can only provide its DSM program implementation strategy. PREPA foresees that it will be able to submit the information required in Subsection 2.04 (B)(2)(a)(ii) on the next scheduled IRP filing pursuant to Act 57-2014. **The waiver request related to subsection 2.04 (B)(2)(a)(ii) is granted.** Information on the Development of Demand Side Resources shall be included in further IRP filings.

(20) **Subsection 2.04(B)(2)(d)(ii).**- PREPA argues that, given the time constraints of this IRP, it can only provide its DSM program implementation strategy. PREPA foresees

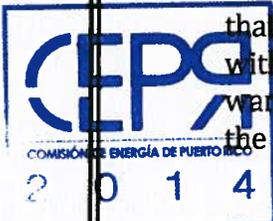


that it will be able to submit the information required in Subsection 2.04 (B)(2)(d)(iii) on the next scheduled IRP filing pursuant to Act 57-2014. **The waiver request related to subsection 2.04 (B)(2)(d)(iii) is granted.** Information on the Development of Demand Side Resources shall be included in further IRP filings.

- (21) **Subsection 2.04(B)(5)(d).**- PREPA argues that, given the time constraints of this IRP, it can only provide its DSM program implementation strategy. PREPA foresees that it will be able to submit the information required in Subsection 2.04 (B)(5)(d) on the next scheduled IRP filing pursuant to Act 57-2014. **The waiver request related to subsection 2.04 (B)(5)(d) is granted.** Information on the Development of Demand Side Resources shall be included in further IRP filings.
- (22) **Subsection 2.04(B)(5)(e).**- PREPA argues that, given the time constraints of this IRP, it can only provide its DSM program implementation strategy. PREPA states that it will include in its filing all information related to costs, pursuant to Subsection 2.04 (B)(5)(e), with the exception of those regarding energy efficiency and demand side management, which it would be able to file on the next scheduled IRP filing pursuant to Act 57-2014. **The waiver request related to Subsection 2.04 (B)(5)(e) is granted.** Information on the Development of Demand Side Resources shall be included in further IRP filings.
- (23) **Subsection 2.04(B)(6)(a) and (b).**- PREPA argues it will not be able to provide the required information, since PREPA has a licensing agreement with the provider that restricts the use of computer programs to certain authorized PREPA employees. Notwithstanding the pronouncements addressing PREPA's confidentiality claims made by this Commission in the matter *In re: Investigation on the Rates of the Puerto Rico Electric Power Authority*, CEPR-IN-2015-0002, PREPA also states that these programs use critical infrastructure information as defined by the Department of Homeland Security that PREPA cannot share with the Commission. Furthermore, according to PREPA it is not necessary for the Commission to replicate the models because they are done by licensed engineers who certify that he results are correct and up to standards of the industry.

The Subsection in question requires PREPA to provide *reasonable access* to the Commission, which necessarily entails developing a method to provide the Commission the information it wants, without violating licensing agreements.

As to PREPA's confidentiality claim, in the matter *In re: Investigation on the Rates of the Puerto Rico Electric Power Authority*, CEPR-IN-2015-0002, the Commission stated "pursuant to Article 6.15 of Act 57-2014, the Commission, not PREPA, has the statutory responsibility of determining, in first instance, if a document or piece of information is confidential, along with the proper treatment to protect information that is, partially or totally, confidential. In other words, PREPA has no legal basis to withhold the documents from the Commission until PREPA gets the designation it wants. If unsatisfied with the Commission's decision as to the confidential nature of the information or the scope of the protection given by the Commission to that



information, PREPA can seek a court determination to enjoin the Commission from disclosing the information in accordance with its decision." Any information classified as "confidential" by the Commission or by court will be protected accordingly. **Therefore, the waiver request to Subsections 2.04(B)(6)(a) and (b) is denied.**

(24) **Subsection 2.04(B)(6)(c) and (d).**- PREPA claims it will not be able to provide the required information because PREPA will not submit with its IRP filing any document classified as confidential or privileged. For the reasons stated in paragraph (23) above regarding the Commission's authority and responsibility to determine, in first instance, which documents are confidential or privileged as well as the proper treatment to protect confidential information, **the waiver request to Subsections 2.04(B)(6)(c) and (d) is denied.**

(25) **Subsection 2.04(B)(7).**- PREPA claims it will not be able to provide the required information because the Action Plan required in Regulation 8594 will be part of the Business Plan that PREPA is currently negotiating with its creditors. **The waiver request to Subsection 2.04(B)(7) is denied.** PREPA's statement implies that the IRP is a function of PREPA's business plan to its creditors, rather than an objective study of PREPA future resource requirements to meet customer requirements. Even worse, PREPA seems to be suggesting that the Action Plan will be negotiated with its creditors as opposed to approved by the Commission. PREPA needs to understand and acknowledge that all negotiations with its creditors regarding rates and future planning is subject to the Commission's approval. Therefore, at the very least, PREPA shall submit in its IRP filing a preliminary version of its Action Plan. PREPA will submit the finalized Action Plan for the Commission's evaluation, on or before July 15, 2015.

For the purposes of this Resolution, the term "IRP filing" includes any IRP, IRP update or supplement to be presented before the Commission pursuant to Act 57-2014, a regulation or order issued by the Commission.

Be it hereby notified and published.



Agustín F. Carbó Lugo
Chairman

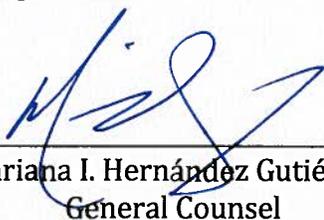


Ángel R. Rivera De La Cruz
Associate Commissioner



José H. Román Morales
Associate Commissioner

I certify that the Puerto Rico Energy Commission has so agreed on June 25 2015. I also certify that on this date a copy of this Resolution was notified to PREPA by electronic mail sent to n-vazquez@aepr.com and n-ayala@aepr.com.



Mariana I. Hernández Gutiérrez
General Counsel

CERTIFICATION

I certify that this is a true and exact copy of the Resolution issued by the Puerto Rico Energy Commission. I further certify that today June 26 2015, I have proceeded with the filing of this Order and I have sent a copy thereof to:

Puerto Rico Electric Power Authority

To the Attention of Nélida Ayala and Nitza D. Vázquez Rodríguez
PO Box 363928
Post Office Headquarters
San Juan, PR 00936-3928

For the record, I sign this in San Juan Puerto Rico, today June 26 2015.



Rafael O. García Santiago
Clerk of the Puerto Rico
Telecommunications Regulatory Board

