

COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ENERGY COMMISSION

IN RE: PETITION FOR APPROVAL OF  
TRANSITION ORDER FILED BY THE  
PREPA REVITALIZATION  
CORPORATION.

CASE No.: CEPR-AP-2016-0001

SUBJECT: PETITION TO  
INTERVENE IN THE  
RESTRUCTURING ORDER AND/OR  
TRANSITION CHARGE PROCEDURE.

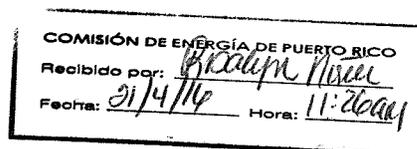
GAS NATURAL PUERTO RICO, INC.'S  
PETITION TO INTERVENE

TO THE HONORABLE PUERTO RICO ENERGY COMMISSION:

COMES NOW **Gas Natural Puerto Rico, Inc.** (“**Gas Natural**”), and respectfully petitions this Honorable Commission for leave to intervene in the above-captioned proceeding pursuant to Section 5.05 of Regulation No. 8543, known as the “Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings”, and Section 3.05 of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedure Act of Puerto Rico”. In support of its Petition for Intervention, Gas Natural states as follows:

**I. INTRODUCTION:**

1. On April 7, 2016, the Puerto Rico Electric Power Authority Revitalization Corporation (“PREPARC”), a special purpose public corporation and instrumentality of the Government of the Commonwealth of Puerto Rico, submitted a “[...] Verified Petition for Restructuring Order” (the “Petition”) before this Honorable Commission in accordance with the procedures established in Order No. CEPR-MI-2015-0001, and pursuant to Article 6.25 (a) of the Energy Transformation and RELIEF Act, Act No. 57 of May 22, 2014 (“Act 57-2014”), as added by Article 20 of the PREPA Revitalization Act, Act No. 4 of February 16, 2016 (“Act 4-2016”).



2. The Petition filed by PREPARC seeks the approval of the imposition of a rate or charge that will allegedly reduce the outstanding debt of PREPA and ultimately reduce the costs of debt service and credit agreements to all customers. See, the Summary of the PREPARC's Petition entered on April 8, 2016. Specifically, the Petition calls for the "issuance of certain Restructuring Bonds (the 'Bonds') and places before the Commission a proposed Restructuring Resolution that creates Restructuring Property, and provides, among other things, for the collection of Transition Charges to repay the Bonds and to cover other related costs, and describes how the Transition Charges will be calculated and adjusted [through the use] of [an] Adjustment Mechanism." Id. In the Petition, PREPARC is requesting this Commission to enter an order that will enable PREPARC to issue the Restructuring Bonds that are necessary to reduce PREPA's outstanding debt.

3. In a "Resolution and Order" entered on April 13, 2016, this Honorable Commission established that any person or entity that wished to intervene in the current proceeding, or in connection with PREPARC's Petition, had to file a written petition to intervene in compliance with Sections 2.02 and 5.05 of Regulation No. 8543 on or before April 19, 2016.

4. In compliance with this Commission's "Resolution and Order" of April 13, 2016, Gas Natural seeks to intervene in the process of evaluation and review of PREPARC's Petition, as it is an experienced entity in energy related matters and distribution of liquefied natural gas in Puerto Rico, who has knowledge of the costs and charges to customers and can assist in the process of calculating the proper methodology to pay the Restructuring Bonds provided for in the Petition.

## II. LEGAL ARGUMENTS:

### A. **A Petition to Intervene will be Liberally Interpreted to Facilitate the Participation of the Party Seeking Intervention.**

5. Section 5.05 of Regulation No. 8543 provides that “[a]ny person with a legitimate interest in a case before the Commission may present a duly grounded petition to intervene”. Id. The Commission will analyze and/or evaluate the petition to intervene using the criteria established in the Uniform Administrative Procedure Act of Puerto Rico (“Act No. 170”). Id.

6. Pursuant to Section 3.05 of Act No. 170, “[a]ny person having a legitimate interest in an adjudicatory procedure before an agency may file a written, duly grounded application in order to be allowed to intervene or participate in said procedure.” P.R. Laws Ann. tit. 3, § 2155. The agency will grant or deny the petition after taking into consideration the following factors:

- “(a) Whether the petitioner's interests may be adversely affected by the adjudicatory procedure.
- (b) Whether there are no other legal means for the petitioner to adequately protect his interests.
- (c) Whether the petitioner's interests are already adequately represented by the parties to the procedure.
- (d) Whether the petitioner's participation may help, within reason, to prepare a more complete record of the procedure.
- (e) Whether the petitioner's participation may extend or delay the procedure excessively.
- (f) Whether the petitioner represents or is the spokesperson of other groups or entities in the community.
- (g) Whether the petitioner can contribute information, expertise, specialized knowledge or technical advice which is otherwise not available in the procedure.

The agency shall apply the above criteria **liberally**”. Id. (Emphasis ours).

7. As provided by Section 3.05 of Act No. 170, agencies must **liberally** construe the factors above-listed in order to determine if it will allow the intervention of a person or entity in a proceeding. The term “**liberally**” means that the request must be construed in favor of allowing the intervention sought.

8. Similarly, in federal courts, where Rule 24 of the Federal Rules of Civil Procedure governs petitions to intervene, and said rule is similar to Rule 21 of the Puerto Rico Rules of Civil Procedure, courts have held that when evaluating a motion to intervene, they must construe the request liberally in favor of allowing intervention, and all doubts are to be resolved in favor of the proposed intervenor. See, South Dakota v. U.S. Dept. of Interior, 317 F.3d 783, 785 (8th Cir. 2003); Southwest Center for Biological Diversity v. Berg, 268 F.3d 810, 820 (9th Cir. 2001); Wright and Miller, Federal Practice & Procedure, 7C Fed. Prac. & Proc. Civ. § 1904 (3d ed.).

9. Likewise, the Puerto Rico Supreme Court has held that the agencies must facilitate the participation of those parties whose interests may be affected by the actions of the administrative agency. Comisión Ciudadanos v. G.P. Real Property, 173 D.P.R. 998, 1011 (2008).

**This means that motions to intervene must be liberally granted to facilitate the participation of the person or entity seeking intervention.**

10. In addition to the factors contained in Section 3.05 of Act No. 170, and as provided in the “Resolution and Order” of April 13, 2016, the party seeking intervention in the above-captioned matter must discuss the following elements in its petition to intervene:

“(1) The nature and scope of petitioner’s interest in the current proceeding and how that interest is relevant to the limited purposes of the statute at issue;

(2) To the extent known, a summary of the petitioner’s legal position in relation to the merits of the case;

(3) A detailed explanation describing how the intervention will contribute to the Petitioner’s evaluation and to a just determination by the Commission pursuant to the

parameters set forth in Act 4-2016. Where the petitioner is a business or other entity, such contribution can be described in terms of petitioner's unique experience or position in an industry; where the petitioner is a person, such contribution can be described in terms of the person's relevant professional and/or academic credentials; and

(4) A determination of how the petitioner's intervention in the case will not result in repetitive testimony or an unreasonable delay of the proceedings." See, the "Resolution and Order," at page 3.

11. Gas Natural will address each factor and element required to sustain its Petition to Intervene *seriatim*.

**B. Gas Natural's Petition to Intervene must be Liberally Construed.**

12. Gas Natural's Petition to Intervene satisfies all the requirements for intervention as contained in Section 3.05 of Act No. 170 and the "Resolution and Order" of April 13, 2016 entered by this Honorable Commission.

**i. The Nature and Scope of Gas Natural's Interest in the Current Proceeding.**

13. Gas Natural is a 100% affiliate of Gas Natural Fenosa and its representative in Puerto Rico. Gas Natural Fenosa is a multinational company in the gas and electricity market, that is present in over 30 countries, and that serves over 23 million clients. Currently, through other 100% affiliates, it supplies natural gas to the Costa Sur Power Plant operated by PREPA and has helped PREPA meet certain energy efficiency goals, and environmental and economic benefits to PREPA's customer base. Gas Natural is developing a project to distribute Liquefied Natural Gas (LNG) by truck from the EcoEléctrica terminal to several industrial and commercial customers in Puerto Rico and has the capability to develop pipeline networks in order to supply bigger natural gas consumers not by truck but by ducts. As such Gas Natural is a market participant with a substantial legal interest in the Restructuring Order and/or Transition Charge Procedure and it can provide the experience and knowledge of Gas Natural Fenosa to this proceeding and the

establishment of rates or charges. See, Gas Natural Fenosa's website, "Nuestra Compañía", available at: <http://www.gasnaturalfenosa.com.pr/> (last visit April 19, 2016).

14. The nature and scope of Gas Natural's interest in the current proceeding stems from the fact that it is a recognized leader in designing, managing and evaluating cost-effective energy efficiency and clean energy strategies for utilities. Act No. 82 of July 19, 2010, as amended, known as the "Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act" ("Act No. 82") seeks in part to lower Puerto Rico's reliance on oil. The liquefied natural gas supplied by Gas Natural is cleaner than coal and other liquid fuels used by PREPA, and offers a readily available solution to PREPA's environmental challenges in a secure and sustainable way in compliance with the Statement of Motives of Act No. 82 and Act No. 57-2014.

15. Gas Natural's interests, as a market competitor, in relation to use of cost-effective energy and the distribution of liquefied natural gas to PREPA can be affected if the method of calculation proposed by PREPARC in its Petition is not accurate, just and reasonable, and prudent, as it relates to the Restructuring Bonds and the projects to be financed with said bonds.

16. Gas Natural Fenosa supplies natural gas to PREPA since 2012, and the Costa Sur Power Plant currently operates using 50% of natural gas purchased from Gas Natural.

17. Therefore, the rates, terms and conditions of service offered by PREPA are of considerable interest to Gas Natural so as to gain assurance that they are appropriate, just and reasonable, prudent and not unduly anti-competitive to energy market participants in Puerto Rico.

18. As stated in the Statement of Motives of Act 57-2014, **PREPA is "a monopoly that regulates itself; [and] sets its own rates without actual oversight"**, which added to other operational and managerial deficiencies in its administration has led or contributed to the high

energy costs in Puerto Rico. With the approval of the Restructuring Order, and if Gas Natural is not allowed to intervene, the only mechanism Gas Natural will have at its disposal to challenge the merits of the Order is by way of judicial review under an arbitrary and capricious standard. However, Gas Natural wants to be able to fully participate and intervene in the process before this Commission so that its experience with rates and charges can actually be taken into account and, if advisable, incorporated into this Commission's evaluation and assessment of the PREPARC's Petition.

19. As a market competitor and provider of liquefied natural gas, Gas Natural's commercial interests are simply unique and are not able to be adequately represented by any other party, including PREPA, PREPARC, the Commonwealth Energy Public Policy Office, and the Independent Consumer Protection Office.

**ii. Gas Natural's Legal Position Regarding the Merits of the Proceedings.**

20. The Petition filed by PREPARC is over five-hundred seventy (570) pages long, counting its exhibits. As such, Gas Natural is currently in the process of reviewing and analyzing the Petition so that it can determine if the Petition: (a) is reasonable; (b) impacts the competitive market and/or market participants; and (c) if it meets the requirements of Article 6.25 of Act 57-2014, as amended, to secure the repayment of certain Restructuring Bonds, which would include an analysis on the proposed method to calculate the charges or rates proposed by PREPARC.

21. If Gas Natural's Petition to Intervene is granted, Gas Natural will promptly submit its written position and commentaries to the PREPARC's Petition in time for the technical and public hearings to be held before this Commission. Notwithstanding, Gas Natural expects to address, in its written legal position, all matters related PREPARC's proposed method of

calculation for the full and timely payment of the Restructuring Bonds, as well as providing any comments and/or evidence to sustain the viability of using the Restructuring Bonds.

**iii. Gas Natural's Intervention will Contribute to the Petition's Evaluation.**

22. Gas Natural has substantial experience in the fuel distribution, terminal operations, and power generation market, and the related regulatory processes, including the pricing and rates of energy services and liquefied natural gas, which may contribute to the Petition's evaluation by this Commission. Gas Natural has experience with regulatory proceedings before the Federal Energy Regulatory Commission, and said experience extends into the context of finances, rates and permits. Gas Natural will be able to bring its experience and expertise into the evaluation of the proposed Restructuring Order and/or Transition Charge Procedure. Gas Natural will be able to help this Commission frame the issues and resources to be considered and approved in PREPARC's Petition. Gas Natural's intervention will also assist in the process of review of the Petition and thus contribute to the establishment of a reasonable charge, and the possible way in which the Restructuring Bonds may be used.

**iv. Gas Natural will not Unduly Delay the Proceedings.**

23. Pursuant to the "Resolution and Order" of April 13, 2016, Gas Natural had until today, April 19, 2016, to file its Petition to Intervene. As such the petition is timely filed and will not cause any undue delays in the proceedings. Granting Gas Natural's intervention will not materially impair the interests of justice and the orderly and prompt resolution of this proceeding. Gas Natural hereby agrees to comply with all the deadlines set by this Honorable Commission, and promises to cooperate and assist this Commission so that it can enter a final ruling on PREPARC's Petition within the seventy-five (75) day term set forth in subsection (f)(2) of Article 6.25 of Act 4-2016.

**III. CONCLUSION:**

24. Gas Natural's Petition to Intervene should be granted because: (a) Gas Natural's intervention is necessary to ensure the approval of an accurate and responsible rate or charge that is mathematically accurate and practicable to administer; (b) Gas Natural's participation will allow for the development of a complete review of PREPARC's Petition; (c) Gas Natural's involvement will not extend or unduly delay the procedure; (d) Gas Natural, as a market participant in the market of liquefied natural, has a legitimate interest in overseeing that the standards of the industry are upheld and that the rates or charges imposed are just, reasonable, prudent and not anti-competitive; and (e) Gas Natural's specialized knowledge and technical resources will be useful in the matter before this Commission's consideration.

**WHEREFORE**, Gas Natural respectfully requests this Honorable Commission to grant its petition to intervene, thus allowing it to become a party to the Restructuring Order and Transition Charge proceeding.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 19th day of April, 2016.

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