

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: PETITIONS TO INTERVENE

RESOLUTION

On April 13, 2016, the Puerto Rico Energy Commission ("Commission") issued a Resolution and Order notifying that the Verified Petition for Restructuring Order ("Petition") filed by the Puerto Rico Electric Power Authority Revitalization Corporation ("Corporation") was complete for purposes of subsection (c) of Article 6.25A from Act 57-2014.<sup>1</sup>

With the purpose of ensuring the transparency of the proceedings and in order to promote ample public participation, through said Resolution and Order, the Commission invited any person or entity interested in intervening in the current procedure to file a written petition on or before April 19, 2016. On said Resolution and Order the Commission stated the requirements that any petition to intervene should comply with and the criterion to be used by the Commission in evaluating the same. The Commission further stated that the Commonwealth Energy Public Policy Office ("CEPPO") and the Independent Consumer Protection Office ("ICPO") would be considered as intervenors as a matter of law.<sup>2</sup>

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The Commission received seven (7) petitions to intervene from the following persons and/or entities: (i) ICPO; (ii) Dr. Guillermo M. Riera, P.E. ("Dr. Riera"); (iii) CEPPO; (iv) Puerto Rico Economic Competitiveness and Sustainability Institute ("ICSEPR", for its Spanish acronym); (v) PV Properties, Inc., Windmar PV Energy, Inc. and Windmar Renewable Energy, Inc. ("Grupo WindMar"); (vi) Decentricity, Inc. ("Decentricity") and (vii) Gas Natural Puerto Rico, Inc. ("Gas Natural").

After evaluating the petitions to intervene, and pursuant to Regulation No. 8543 of Administrative Procedures, the April 13, 2015 Resolution and Order, Section 3.5 of Act No. 170 of August 12, 1988, as amended, known as the Puerto Rico Uniform Administrative Procedure Act ("LPAU", for its Spanish acronym), and applicable jurisprudence, the Commissions **GRANTS** the petitions to intervene filed by the following entities:

<sup>1</sup> Act 57-2014 of May 27, 2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act.

<sup>2</sup> In the case of CEPPO and ICPO, the Commission stated that, in order to be considered as intervenors, said entities would be required to notify their intention to participate as such on or before April 19, 2016.



- (a) ICPO
- (b) CEPPO
- (c) Grupo WindMar
- (d) ICSEPR

With regards to the petitions to intervene filed by Decentricity, Gas Natural and Dr. Riera, the Commission makes the following determinations:

**(a) Decentricity**

On its petition, Decentricity states that it is a developer of energy projects actively engaged in negotiating and designing proposals for power and thermal services to industrial and commercial offtakers in Puerto Rico.<sup>3</sup> Furthermore, Decentricity states that it may seek to offer service to customers of the Puerto Rico Electric Power Authority ("PREPA") through a wheeling agreement pursuant to Act 73-2008.<sup>4</sup> In light of the aforementioned, Decentricity states that the rates, terms and conditions of the services offered by PREPA are of considerable interest to Decentricity so as to ensure that they are just and reasonable and not unduly discriminatory and anti-competitive to others seeking to provide electric service to PREPA's customers.<sup>5</sup> We disagree.

Decentricity's petition fails to describe in detail how its experience will assist the Commission in evaluating the Petition pursuant to the parameters set forth in Article 6.25A of Act 57-2014 and Chapter IV of Act 4-2016.<sup>6</sup> The petition further fails to describe in detail how Decentricity's interests and operations in Puerto Rico would be adversely affected through the approval of a Transition Charge and Adjustment Mechanism. In light of Act 4-2016's limited scope regarding the Commission's evaluation of the Petition, a general allegation regarding the possibility of an adverse impact is not sufficient to justify Decentricity's intervention in this proceeding. As such, the Commission **DENIES** Decentricity's petition to intervene.

**Notwithstanding the aforementioned, the Commission recognizes Decentricity's interest in participating in this proceeding. As such, Decentricity is encouraged to provide its written comments and opinion on or before June 6, 2016 and/or to participate during the Public Comments Hearing to be held on May 31, 2016, according to the instructions issued by the Commission.**

**(b) Gas Natural**

Gas Natural states that it currently supplies natural gas to the Costa Sur Power Plant and is in the process of developing a project to distribute Liquefied Natural Gas from

<sup>3</sup> Decentricity's Petition to Intervene, p. 5.

<sup>4</sup> Id.

<sup>5</sup> Id. to p. 5-6.

<sup>6</sup> Act No. 4 of February 16, 2016, known as the Puerto Rico Electric Power Authority Revitalization Act.

EcoEléctrica's terminal to several industrial and commercial customers in Puerto Rico.<sup>7</sup> Furthermore, Gas Natural states that it has ample experience in the design, management and evaluation of energy efficiency strategies<sup>8</sup> and has participated in numerous administrative procedures before the Federal Energy Regulatory Commission ("FERC").<sup>9</sup>

Gas Natural's petition fails to describe in detail how the approval of a Transition Charge and Adjustment Mechanism will adversely impact Gas Natural's interests and operations in Puerto Rico. Given the Commission's limited scope for evaluating the Petition, a general allegation, unsupported with specific examples, regarding a negative effect as a result of the approval of a Transition Charge and Adjustment Mechanism is insufficient to justify Gas Natural's intervention in this proceeding. As such, the Commission **DENIES** Gas Natural's petition to intervene.<sup>10</sup>

**Notwithstanding the aforementioned, the Commission recognizes Gas Natural's interest in participating in this proceeding. As such, Decentricity is encouraged to provide its written comments and opinion on or before June 6, 2016 and/or to participate during the Public Comments Hearing to be held on May 31, 2016, according to the instructions issued by the Commission.**

**(c) Dr. Guillermo Riera**

Dr. Riera's petition to intervene fails to fully comply with the substantive and filing requirements set forth by the Commission on its April 12, 2016 Resolution and Order. Dr. Riera's petition is limited to stating that he collaborated in the drafting of Act 57-2014 and Act 4-2016, that he is an expert in the mathematical analysis and application of true-up adjustment mechanisms and is interested in "recommending [...] the incorporation of the necessary mechanisms for detecting errors in the reconciliation."<sup>11</sup> However, Dr. Riera fails to address any of the criterion stated by the Commission on the April 12, 2016 Resolution and Order and fails to identify a legitimate interest which justifies his intervention in this proceeding.

Furthermore, when filing his petition, Dr. Riera did not notify copy of his petition to the Corporation, resulting in that the petition failed to comply with the requirement set forth in sub-section (E)(1) of Section 2.02 of Regulation 8543 of Administrative Procedures.

The Commission considers that Dr. Riera has the opportunity to express his opinion and provide his recommendations through the filling of written comments and/or by

<sup>7</sup> Gas Natural's Petition, p. 5.

<sup>8</sup> Id. to p. 6.

<sup>9</sup> Id. to p. 8.

<sup>10</sup> It should be noticed that Decentricity and Gas Natural seem to confuse elements of a rate review procedure under Article 6.25 of Act 57-2014 and the procedure to evaluating the Petition, which is subject to the provisions of Article 6.25A of Act 57-2014 and under which the Commission's authority and jurisdiction is limited when compared to an ordinary rate review procedure.

<sup>11</sup> Dr. Riera's Petition.

appearing before the Commission during the Public Comments Hearing. As such, the Commission encourages Dr. Riera to use said mechanism to express his views regarding the Petition. In light of the aforementioned, the Commission **DENIES** Dr. Riera's petition to intervene.

For the benefit of all the parties involved, the Commission issues this Resolution in both Spanish and English languages. Should any discrepancy between each version arise, the content and provisions of the Spanish version shall prevail.

Any party adversely affected by this Resolution may request judicial review before the Court of Appeals within a term of thirty (30) days beginning on the date in which the Commission certifies that a copy of this Resolution was notified. If the date in which the Commission certifies that the Resolution was notified differs from the date in which the Resolution was deposited in the mail, the aforementioned thirty (30) day term shall begin on the date the Resolution is mailed, as evidence by the postmark. Any party electing to exercise his/her right to seek judicial review must notify a copy of his/her request to the Commission and to any other party notified of this Resolution within the term for seeking judicial review. The filing and notification of the request for judicial review shall be made pursuant to the Puerto Rico Uniform Administrative Procedure Act and the Regulation of the Court of Appeals, 2004 TSPR 121.

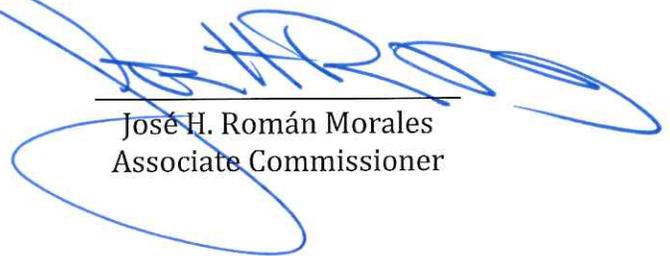
Be it notified and published.



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 April 24, 2016. I also certify that on this date a copy of this Resolution was notified via email to: aperez@fglaw.com, mgrpcorp@gmail.com, agraitfe@agraitlawpr.com, edwin.quinones@aee.pr.gov, guillermo.m.riera@gmail.com, codiot@oipc.pr.gov, equinones@qalawpr.com, glenn.rippie@r3law.com, mhernandez@fglaw.com.



Brenda Liz Mulero Montes  
Interim Clerk



## CERTIFICATION

I Certify that the foregoing is a true and exact copy of the Resolution issued by the Puerto Rico Energy Commission. I further certify that on April \_\_\_\_\_, 2016 I have proceeded with the filing of this Resolution and I have sent a copy thereof to:

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For the record, I sign this in San Juan, Puerto Rico, today, April \_\_\_\_\_, 2016.

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