

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

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| COMISIÓN DE ENERGÍA DE PUERTO RICO | |
| Recibido por: | <i>Clayton Johnson</i> |
| Fecha: | <i>2/7/16</i> Hora: <i>10:37</i> |

IN RE: REVIEW OF RATES OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY,

Petitioner.

No.: CEPR-AP-2015-0001

**SUBJECT: PREPA'S
EMERGENCY MOTION FOR
CONFIDENTIAL TREATMENT OF
TWO ITEMS**

**PREPA'S EMERGENCY MOTION FOR
CONFIDENTIAL TREATMENT OF TWO ITEMS**

TO THE HONORABLE PUERTO RICO ENERGY COMMISSION:

Comes now the Puerto Rico Electric Power Authority ("PREPA"), and hereby respectfully moves for confidential treatment (as trade secrets) of two items filed by PREPA on the afternoon of July 5, 2016.

This Motion is submitted under, among other authorities, Sections 1.4, 6.3, and 6.15 of Act 57-2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act ("Act 57-2014"); Section 1.15 of Regulation No. 8543, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings ("Reg. 8543"); Section 4.02 of Regulation No. 8720, New Regulation on Rate Filing Requirements for the Puerto Rico Electric Power Authority's First Rate Case ("Reg. 8720"); the *Normas Internas para el Manejo de Información Confidencial en la Comisión de Energía de Puerto Rico*; and general legal principles. This Motion is supported by a Verification.

In support of this Motion, PREPA states as follows:

1. On the afternoon of July 5, 2016, PREPA filed its Responses to the Commission's Second Requirement of Information. The filing included written answers

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to the questions posed in the Commission's 2nd Request for Information, dated June 23, 2016 (the "2nd ROI"), and nine Attachments thereto.

2. Section 4.02(A) of Regulation 8720 allows for confidential treatment of information contained in PREPA's formal application or in any supplement. As addressed more thoroughly in PREPA's Motion for Entry of a Protective Order, filed on June 3, 2016, documents filed by PREPA in this proceeding may include privileged information, Critical Energy Infrastructure Information, or information that is confidential for business reasons. Business confidential information includes material that is confidential in a general business sense and also, in particular, trade secrets. The Commission and other commissions also have recognized these kinds of concerns warrant confidentiality protections. The Commission recently did so in the Integrated Resources Plan ("IRP") case, docket No. CEPR-AP-2015-0002. The instant motion involves two items containing trade secrets of third party vendors.

3. With respect to trade secrets in particular, the need to provide suitable protections against public disclosure is reflected in, for example, Act 80-2011, known as the Trade Secrets Act of Puerto Rico ("Act 80-2011"). Act 80-2011 defines a trade secret as any information that:

[H]as a present or a **potential** independent **financial value** or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information; and [f]or which reasonable security measures

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have been taken, as circumstances dictate, to maintain its confidentiality.¹

See *also* the Commission's April 28, 2016, Resolution and Order in the IRP case.

4. Two of the nine Attachments to PREPA's Responses to the Commission's Second Requirement of Information contain confidential business information (trade secrets) that should be afforded appropriate protection under Section 4.02 of Reg. 8720 and other applicable law.

5. Specifically, the two following Excel spreadsheets have been designated as confidential by PREPA:

- a. Attachment PPS-1 RRA Data; and
- b. Attachment PPS-3 Fitch Public Power Yearbook_unlocked.

6. In each instance, PREPA seeks to identify this information as "business confidential." PREPA requests that the Commission apply these confidentiality designations retroactively and treat these items as confidential as of the date of filing, July 5, 2016.

7. The Attachments listed above contain business confidential information in the form of trade secrets. The spreadsheets contain proprietary data purchased from vendors that is not common knowledge or readily accessible without an agreement or license from the vendor and which is of commercial and financial value to the vendor. This data thus constitutes a trade secret, and the vendors could suffer harm in their business if the data was freely available to or usable by others commercially, outside of

¹ Act 80-2011, at § 3 (emphasis added).

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this proceeding. See Act 80-2011; the Commission's April 28, 2016, Resolution and Order in the IRP case.

8. Attachment PPS-1 contains proprietary data purchased from the vendor Regulatory Research Associates ("RRA") that should be protected as trade secrets. Attachment PPS-3 contains proprietary data purchased from the vendor Fitch that should be protected as trade secrets.

9. PREPA and Navigant agree that these Attachments should be made available to intervenors in this rate review, but ask that they be given trade secret level protection as proposed in PREPA's June 3, 2016, Motion for the Entry of a Protective Order, such that only intervenors who sign an appropriate agreement limiting their use to this proceeding, and preventing their publication in a public form, will be given access.

10. The Commission should approve PREPA's designations and its proposals for the treatment of this confidential information as previously detailed in PREPA's June 3, 2016, Motion for the Entry of a Protective Order.

WHEREFORE, for all the reasons set forth above, the Puerto Rico Electric Power Authority respectfully requests that the Commission approve PREPA's designations of certain materials attached to its Responses to the Commission's Second Requirement of Information as business confidential and its proposals for the treatment of this confidential information as previously detailed in PREPA's June 3, 2016, Motion for the Entry of a Protective Order.

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VERIFICATION

I, Sonia Miranda Vega, of legal age, engineer, married, and resident of Vega Alta, Puerto Rico, in my capacity as Director of Planning and Environmental Protection, of the Puerto Rico Electric Power Authority (PREPA), under oath declare as follows:

1. My name and personal circumstances are those stated above.
2. I have reviewed the foregoing Motion.
3. In my capacity as Director of Planning and Environmental Protection of PREPA, I have been duly authorized to provide this Verification in support of the Motion.
4. The factual information included in the Motion is true on the basis of my personal knowledge or on the basis of the information supplied to me by employees of PREPA and, with respect to legal points, by counsel for PREPA.

In San Juan, Puerto Rico, this 7th day of July, 2016.

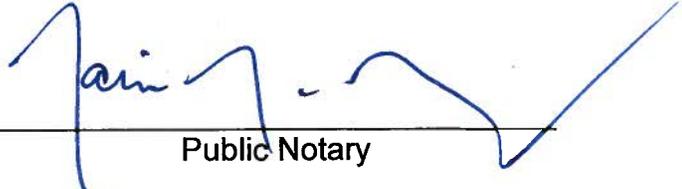


Sonia Miranda Vega

Affidavit No. 3,600

Sworn and subscribed before me by Sonia Miranda Vega, of the personal circumstances above mentioned, whom I personally know, in San Juan, Puerto Rico, this 7th day of July, 2016.





Public Notary

EXENTO PAGO ARANCEL
LEY 47
4 DE JUNIO DE 1982