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2014

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

IN RE: PUERTO RICO ELECTRIC POWER AUTHORITY RATE REVIEW	**CASE NO.:** CEPR-AP-2015-0001 **SUBJECT:** Motion for reconsideration filed by PREPA and IOCP in relation to the Commission's August 29, 2016 Resolution and Order

RESOLUTION

Through this Resolution, the Puerto Rico Energy Commission ("Commission") consolidates and addresses the motions for reconsideration filed by the Puerto Rico Electric Power Authority ("PREPA") on September 7, 2016 and by the Independent Office of Consumer Protection ("IOCP") on September 9, 2016. Through their respective motions for reconsideration, PREPA and IOCP request the Commission to reconsider its August 29, 2016 Resolution and Order ("Resolution and Order"), specifically the requirement that any document produced, drafted or elaborated for the purposes of being filed in the instant proceeding be translated to English or Spanish, as applicable.

Through said Resolution and Order, the Commission established, among other things, that any document filed in response to any part of this proceeding could be filed in English or Spanish. However, parties where required to notify a non-certified translation of such document no later than two (2) days after the original document was filed. On that occasion, the Commission clarified that such translation requirement was not applicable to any documents which were not produced, drafted or elaborated specifically for being filed in the instant proceeding and which are filed in support of, or attached to, any response to discovery, testimony or brief. The Commission established that such document could be filed in the language in which they where originally produced without the need of notifying a translation.

In support of its request, PREPA argued, in essence, that requiring the translation of documents produced, drafted or elaborated with the purpose of being filed in the instant proceeding would represent an increase in costs and work-load, may affect a party's ability to comply with filing deadlines and increases the possibility of error or misunderstandings in the event of any lack of precision in the translation or that the translations are incomplete.

With regards to how it is directly affected by the translation requirement, PREPA argued that in order to comply with such requirement, it would need to reorganize resources and hire new employees or outside contractors, which would result in an increase in the amount of time and money invested in the instant proceeding. PREPA further argued that the two (2) days period for notifying the translation does not contemplate the volume or

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complexity of the documents filed nor the need for coordination among the translator and its advisors to ensure a precise translation.

On the other hand, IOCP argued that allowing documents to be filed in English is not in line with the best interest of Puerto Rican consumers and that, given its recent creation and limited resources, it is unable to comply with the translation requirement.

Having examined both motions for reconsideration, the Commission **DENIES** the requests filed by PREPA and IOCP.

The translation requirement responds to the Commission's interest of ensuring a truly transparent procedure, which is an express and unequivocal mandate of Act 57-2014.[1] The discussion regarding the language that should prevail has a practical effect on the instant proceeding, since the majority of the expertise on the subject matter is derived from non-Spanish speaking experts. Requiring that all documents be filed only in Spanish represents and obstacle to the just resolution of this proceeding.

Similarly, the translation requirement, allows for a more transparent procedure. Conversely, not requiring the translation of documents to English is not in line with the nature of the instant proceeding. The analysis of the information related to the evaluation of PREPA's rates does not consist of mere allegations, but requires the detailed analysis of highly technical procedures, formulas and proposals which related to professional fields whose principal language is English and whose study, including in Puerto Rico, is done in English.

On the other hand, the concern outlined by PREPA regarding the possibility to an increase of errors and misunderstandings in the event that the filed translations are inaccurate or incomplete could be corrected by the identification, by the filing party, of the version that should prevail in case of discrepancies among the filed documents. That has been the way this Commission have addressed the same matter for this proceeding.[2]

The Commission, conscious of the differences in opinion with regards to the filing of information in one language or the other, has opted for an alternative which balances both opinions and promotes the exchange of information while protecting the accessibility of the process. It should be noted that both PREPA and IOCP's requests appear to ignore this reality by proposing absolute alternatives, that do not take into consideration the public interest, and on the one hand, promoting a process which is poorly accessible, and that also ignores the complex nature of the subject matter being considered.

The Commission is no stranger to the increase in work-load associated with ensuring transparency in its procedures. Proof of such is its efforts to issue its orders, resolutions and

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[1] The Puerto Rico Energy Transformation and RELIEF Act, as amended.

[2] *See*, Motion notifying legal representation filed by the Puerto Rico Aqueduct and Sewer Authority on Sept 12, 2016, the Information Request notified by Sunnova Energy Corporation on September 14, 2016, and the Interrogatory filed by WindMar Group on September 19, 2016.

discovery requests in both English and Spanish. Consequently, when issuing the Resolution and Order, the Commission adopted a series of measures aimed at reducing the impact the translation requirement would have on all parties. Specifically, the Commission provided that such translation requirement would only be applicable to those documents which are produced, drafted or elaborated with the purpose of being filed in the instant proceeding. Any other document which was not drafted or elaborated with such purpose and which is filed in the instant proceeding could be filed in the language it was originally drafted, without the need of providing a translation. Similarly, the Commission established it would not be necessary to provide a certified translation or to file the same at the Clerk's Office of the Commission.

Notwithstanding the aforementioned, the Commission **CLARIFIES** that the translation requirement shall be of a prospective nature and that the parties may elect for the original version to prevail in case of any discrepancy, thus excusing any lack of precision in the translation.[3] Furthermore, the translation requirement shall not be applicable to those documents filed in Microsoft Excel (or similar program) or which consist of PDF version of such documents. Parties may request an exemption from complying with the translation requirement when they deem that, given the nature of the document, providing a translation is not practical. Finally, the Commission clarifies that the two (2) day period for notifying the translation set forth in the Resolution and Order shall refer to business days.

Parties are warned that failure to comply with the requirements set forth herein, or with any other requirement set forth by the Commission through order o resolution, may result in the imposition of administrative fines, penalties and sanctions, which may include deeming any document filed in violation of the aforementioned as not having been filed.

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

Be it notified and published.

Agustín F. Carbó Lugo
President

Ángel R. Rivera de la Cruz
Associate Commissioner

José H. Román Morales
Associate Commissioner

[3] Although translations will not be held up to the same rigorous standards as any original document, the Commission will ensure that translations are as reliable as they could be given the circumstances.

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CERTIFICATION

I hereby certify that the Puerto Rico Energy Commission has so agreed on September 20, 2016. I also certify that on this date a copy of this Resolution was notified by electronic mail to the following: n-ayala@aeepr.com, c-aquino@aeepr.com, glenn.rippie@r3law.com, michael.guerra@r3law.com, john.ratnaswamy@r3Law.com, codiot@opic.pr.gov, jperez@oipc.pr.gov, cfl@mcvpr.com, ivc@mcvpr.com, mmuntanerlaw@gmail.com, jfeliciano@constructorespr.net, abogados@fuerteslaw.com, jose.maeso@aae.pr.gov, edwin.quinones@aae.pr.gov, nydinmarie.watlington@cemex.com, aconer.pr@gmail.com, epenergypr@gmail.com, jorgehernandez@escopr.net, ecandelaria@camarapr.net, pga@caribe.net, manuelgabrielfernandez@gmail.com, mreyes@midapr.com, agraitfe@agraitlawpr.com, mgrpcorp@gmail.com, attystgo@yahoo.com and maribel.cruz@acueductospr.com.

María del Mar Cintrón Alvarado
Clerk

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, September ___, 2016, I have proceeded with the filing of the 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, September ___, 2016.

_____
Jessica Fuster Rivera
Clerk of the Puerto Rico
Telecommunications Regulatory Board