



**COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION**

IN RE: THE PERFORMANCE OF THE PUERTO
RICO ELECTRIC POWER AUTHORITY

CASE NO.: CEPR-IN-2016-0002

SUBJECT: Discovery Confidentiality Request
1st Submission of 2nd Requirement of
Information.

RESOLUTION AND ORDER

On March 24, 2017, the Puerto Rico Electric Power Authority (“PREPA”) filed its first submission of answers to the Puerto Rico Energy Commission (“Commission”) Second Requirement of Information (“ROI 2”) in the instant case.¹ In its filing, PREPA requested confidentiality treatment for the attachments incorporated in the answers to two Commission requirements.² On March 27, 2017, PREPA filed a memorandum of law stating its arguments and legal grounds in support of its confidentiality request.

PREPA argues that the information included in such documents constitutes Critical Energy Infrastructure Information (“CEII”). PREPA based its claims on the Critical Infrastructure Protection Act of 2001,³ and the definition of “critical infrastructure”.⁴ PREPA states that the information included in such documents contains CEII since it provides detailed information related to PREPA’s forced system interruptions at power generation facilities. Furthermore, PREPA also states that the information within the documents could compromise the security of Puerto Rico’s electric grid because such information could be used to forecast future system interruptions to disrupt PREPA’s operations. In addition, PREPA argues that this is the type of information it would submit to the Federal Energy Regulatory Commission, pursuant Form No. 715, and therefore would be considered *de facto* CEII under federal law.

As part of its motion, PREPA requests that the documents provided be protected from disclosure and for the Commission to establish that CEII confidential information will not be made available to the general public. In the alternative where a potential intervenor requests such documents, PREPA requests that the documents be available under specific rules, including establishing specific reasons for the access request.

¹ 2nd Requirement of Information sent to PREPA on March 13, 2017.

² PREPA requested confidential treatment for the following attachments: PREPA ROI_02_04 Attach 01 (CONFIDENTIAL).pdf, PREPA ROI_02_05 Attach 01 (CONFIDENTIAL).pdf.

³ Title X, Section 1016, P.L. 107-59.

⁴ 42 U.S.C. § 5195 c(e).

Ordinarily, the information provided as part of a Commission's investigation is deemed confidential throughout the course of the proceeding.⁵ Once the investigation is concluded, the administrative record shall be disclosed to the public, except "any information classified as privileged during the course of the investigation, or [...] that may violate [...] the right to privacy of the person investigated."⁶

Notwithstanding the above, and after examining PREPA's arguments in support of its request, the Commission **GRANTS** the confidentiality requests for the information and documents filed as part of the first submission in response to ROI 2. Such information shall be classified as confidential after the conclusion of this proceeding. The Commission's Clerk is **ORDERED** to take the necessary measures to comply with the provisions herein, in accordance with the procedures for handling of confidential information established by the Commission.

Access to the documents and information deemed as confidential shall be made in accordance with the processes established in the Commission's August 31, 2016 Resolution on Confidentiality on Case No. CEPR-MI-2016-0009.

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

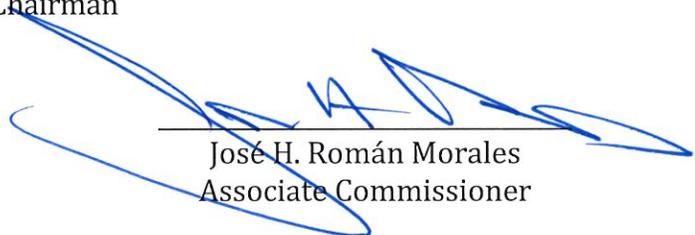
Be it notified and published.



Agustín F. Carbó Lugo
Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner



José H. Román Morales
Associate Commissioner

CERTIFICATION

I hereby certify that the Puerto Rico Energy Commission has so agreed on April 3, 2017. I also certify that a copy of this Resolution and Order regarding Case No. CEPR-IN-2016-0002 was notified by electronic mail to the following: j-morales@aepr.com, n-vazquez@aepr.com, and c-aquino@aepr.com. I further certify that on April 3, 2017, I

⁵ See Section 15.10 of Regulation No. 8543, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures.

⁶ *Id.*



have proceeded with the filing of this Resolution and Order and I have sent a copy thereof to:

Autoridad de Energía Eléctrica de Puerto Rico

Attn.: Javier Morales Tañon

Nitza Ayala Vázquez

P.O. Box 363928

Correo General

San Juan, PR 00936-3928

For the record, I sign this in San Juan, Puerto Rico, today, April 3, 2017.

A handwritten signature in blue ink, which appears to read 'M. del Mar Cintrón Alvarado', is written over a horizontal line.

María del Mar Cintrón Alvarado
Clerk