

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

IN RE: INVESTIGATION ON THE RATES OF
THE PUERTO RICO ELECTRIC POWER
AUTHORITY

No.: CEPR-IN-2015-00002

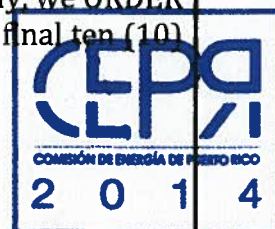
SUBJECT: INFORMATION REQUIREMENT
TO THE PUERTO RICO ELECTRIC POWER
AUTHORITY

RESOLUTION AND ORDER

On March 20, 2015, the Puerto Rico Energy Commission ("Commission" or "Energy Commission") issued an Amended Final Resolution addressing the Puerto Rico Electric Power Authority's ("PREPA") arguments in its Motion to Request Extension of Period to Object to Order and its Motion to Object to Certain Items of Order, both related to the Order issued by this Commission on February 12, 2015 initiating the investigation in the matter In re: Investigation on the Rates of the Puerto Rico Electric Power Authority, CEPR-IN-2015-0002 (the "Order" or "February 12 Order") and requiring information from PREPA. On that same date (March 20), the Amended Final Resolution was notified to PREPA by electronic mail and, in conformity with the provisions of Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedures Act, by regular and certified mail.

PREPA now comes before us with a motion titled "Moción en torno a 'Resolución Final Enmendada' y en Solicitud de Orden" ("Moción"). In sum, PREPA anticipates that it will file a motion to reconsider in relation to the Amended Final Resolution; requests additional time to suggest language for the confidentiality agreements which the Commission *will require of anyone receiving confidential information*; requests the Commission to clarify the rules related to the notification of orders and resolutions of the Commission and to the filing of documents by parties; and requests that all Commission notifications be sent to PREPA's attorneys.

In this Resolution and Order we grant the five (5) day extension requested by PREPA; we alert PREPA of the arguments it must present if it wants its motion to reconsider to be effective; we clarify and specify some of the details of the procedure that the Commission will follow to address PREPA's confidentiality claims with sufficient time before the investigation ends; we correct the record and remind PREPA of its basic due diligence duty to study and examine the applicable sources of law and the Commission's decisions before presenting arguments; we alert PREPA of the possible consequences of its behavior if it continues to resist this Commission's orders and rulings; we grant the request for all notifications, from this point on, be sent to PREPA's attorneys; and finally, we ORDER PREPA to submit the information required in the February 12 Order within a final ten (10) day period.



I. PREPA's intention to seek reconsideration

In its March 20, 2015 Amended Final Resolution, the Commission explained why each of PREPA's objections are unsupported by law. Considering the record, if PREPA wishes its motion to reconsider to help the Commission, it must address the following issues, which we have categorized according to the numbered objections in PREPA's Motion to Object to Certain Items of Order:

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- A. **Objection #1** (required information is already publicly available): PREPA must explain the legal basis for not providing such information in the manner and in accordance to the instructions provided by the Commission in the February 12 Order and the Amended Final Resolution.
 - B. **Objection #2** (required information is confidential under federal law): For information that PREPA alleges is required to be kept confidential under "Federal Securities and/or Homeland Security laws and regulations" PREPA must state precisely where those laws or regulation prohibit PREPA from providing the information confidentially to the Commission, or preempt the Commission from requiring the information, or where those laws or regulations dictate the procedures by which the Commission must maintain the information.
 - C. **Objection #3** (required information falls outside Commission jurisdiction): PREPA must explain precisely which information is not related to the Commission's powers and duties, which include, but are not limited to, the power and duty to ensure that PREPA's costs and rates are just and reasonable and that its planning, operations, community relations and all other aspects of its performance are efficient and consistent with the public interest.
 - D. **Objection #4** (required information –including analyses, studies, narrative descriptions or opinions– does not exist): PREPA must explain the legal basis for not stating precisely in its responses under oath which documents sought do not exist; and, where they do not exist, why PREPA should not describe and provide any documents that represent a substitute for such documents because they contain similar information.
 - E. **Objection #5** (requirements of information are ambiguous or overbroad): The objection of "overly broad" has no legal basis.¹ Either



¹ PREPA states, in several places, that our information requirements are numerous and detailed. We understand that having a regulator question PREPA's costs and operations is a new experience



the request is within the Commission's jurisdiction or it is not. For any request that PREPA deems ambiguous, per the Commission's Amended Final Resolution, PREPA shall communicate directly, orally or by email, with the General Counsel and the Commission's consultants to resolve the ambiguity, no later than 10 days from the date of notification of this Resolution and Order via electronic mail. If PREPA believes a requirement of information seeks more information than is useful or necessary, it may discuss the matter with the consultants, but the discussion must resolve in favor of the Commission's needs and thus, the public interest.

- F. **Objection #6** (required information is relevant only to Ethics Commission and Department of Justice): As the Commission explained in its Amended Final Resolution, anything related to PREPA's performance is subject to the Commission's jurisdiction, regardless of whether it also is subject to some other agency's jurisdiction. Therefore, PREPA shall identify any legal principle that denies jurisdiction to the Commission to require the information specified in items 15 and 16 of the February 12 Order.

II. PREPA has no legal basis to withhold from the Commission information it deems confidential; clarification of the procedures to secure privileged or confidential information

Since the beginning of this investigation, the Commission has recognized the possibility that some documents may be privileged or confidential. See, February 12 Order, p. 4-5; Final Resolution, p. 2 note 5; Amended Final Resolution, p. 4-5. The record shows that PREPA has claimed *in the abstract* that some of the required information is confidential, based on multiple grounds: "safety and security", concerns about "affect[ing] current negotiations with creditors," concerns about information "that may be used in the future by potential participants in PREPA's or the Commission's procurement processes to obtain undue advantage from other competitors and possible price-fixing or collusion", information whose disclosure "could have possible implications under Federal Securities Laws", and information that "would constitute confidential information under Homeland Security Laws and regulations."

As we stated in the February 12 Order and the Amended Final Resolution, pursuant to Article 6.15 of Act 57-2014, the Commission, not PREPA, has the statutory responsibility of determining, in first instance, if a document or piece of information is confidential, along with the proper treatment to protect information that is, partially or totally, confidential. In other words, *PREPA has no legal basis to withhold the documents from the Commission until PREPA gets the designation it wants*. If unsatisfied with the Commission's decision as to the confidential nature of the information or the scope of the protection given by the

for PREPA. However, in the field of utility regulation this level and type of questioning is not in any way extraordinary.

Commission to that information, PREPA can seek a court determination to enjoin the Commission from disclosing the information in accordance with its decision. In this regard, Article 6.15 provides, in part, as follows:

(c) The Energy Commission shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the Energy Commission who needs to know such information under nondisclosure agreements. **However, the Energy Commission shall direct that a non-confidential copy be furnished for public review.**

(d) **The Energy Commission shall swiftly act on any privilege and confidentiality claim made by a person subject to its jurisdiction by means of a resolution to such purposes before any allegedly confidential information is disclosed.** (Emphasis provided)

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In accordance with the provisions of Act 57-2014 and Regulation No. 8543, *Reglamento de Procedimientos Adjudicativos, Avisos de Incumplimiento, Revisión de Tarifas e Investigaciones* ("Regulation 8543"), the Commission has established the procedures to address PREPA's claims regarding confidentiality and to secure the information that deserves protection. See, February 12 Order, p. 4-5; Amended Final Resolution, p. 4-5. It seems that, PREPA wants the Commission to determine, and commit to, the appropriateness of PREPA's confidentiality claim before the Commission has had an opportunity to evaluate the documents in question. PREPA's insistence is illogical on its face, and unlawful. Just as PREPA has no legal authority to withhold the documents until it receives the assurance it wants, the Commission has no authority to grant what PREPA is requesting, without reviewing the documents to properly evaluate PREPA's claim. In insisting that the Commission grant confidentiality treatment to documents the Commission has not have the opportunity to examine, PREPA is asking the Commission to act *ultra vires*. As the Commission has repeatedly explained, PREPA's insistence is unnecessary at this time, because during the investigation the Commission is bound by statute to maintain the confidentiality of all documents and information.

In an effort to address PREPA's concerns, while complying with our responsibilities under Puerto Rico law, we state the following details of the legal procedure related to the treatment and classification of confidential information:

- A. PREPA must provide the information required in the February 12 Order, no later than 10 days from the date of notification of this Resolution and Order via electronic mail. (We recognize that PREPA might not be able to respond to all of the questions within 10 days. If that is the case, we expect PREPA to provide as much information as is feasible within the 10-day period, along with a specific schedule describing when the remaining material will be submitted. As to the logistics of which material should be in paper form and which in



electronic form, and precisely to whom the information should be submitted, PREPA may communicate informally with the Commission's General Counsel.)



- B. During the investigation, the Commission will maintain the confidentiality of all documents, pursuant to Regulation 8543. The Commission has invited PREPA to suggest language for the Commission to establish procedures and practices that will maintain that confidentiality, including language that would be placed in agreements between the Commission and its employees and consultants. PREPA shall submit such language on or before April 6, 2015. We reiterate that PREPA has no right to withhold documents until the Commission establishes the procedures requested by PREPA.
- C. No later than 10 days after submitting the information, PREPA shall (i) mark or identify the information as 'confidential' or 'privileged'; "(ii) identify the reason why the document or information should be classified as 'confidential' or 'privileged'; and (iii) state in writing the legal bases and sources to support its argument that such information or document should be classified as 'confidential' or 'privileged'."² PREPA must connect each claim to a particular document or piece of information.
- D. The Commission will decide each claim, no later than 30 days prior to the end of the investigation. This process gives PREPA sufficient time to seek reconsideration and go to court to prevent disclosure if PREPA disagrees with the Commission's decision, before the Commission issues and notifies the report to the public.

This procedure satisfies PREPA's legitimate concerns. The statutory responsibility for determining confidentiality lies with the Commission and the courts, not with PREPA. PREPA may not use its physical control of the documents to try to pressure the Commission into making decisions that violate the law.

III. Basic due diligence: PREPA must read and study the applicable sources of law and the Commission's decisions before presenting arguments

In its Moción, PREPA makes several statements and arguments that have already been addressed by the Amended Final Resolution and the February 12 Order. This Commission finds it convenient to highlight those statements for the record.

- A) **PREPA complains that the February 12 Order is broad, and the Commission gave 10 days to contest it and 30 days to submit the responses and information required therein**

² February 12 Order, p.5.

As we specifically stated in the February 12 Order and the Amended Final Resolution, the ten (10) day period to contest a requirement of information comes from the provisions of Section 15.05 of Regulation 8543. As a general rule, time periods may be extended, but it is well-known that such requests must be filed before the initial time period expires.

Even if the Commission were to consider the regular mail notification date –and not the electronic mail notification date– to count the 10-day period established in Regulation 8543 to contest the February 12 Order, *such period would have also expired on February 23, 2015* since said Order was recorded and notified by the Clerk on February 13, 2015. Therefore, if PREPA wanted to request additional time to contest the February 12 Order, it should have filed its motion on or before February 23, 2015.

PREPA alleges that the February 12 Order was not received by regular mail until February 19. However, *PREPA has not included a copy of the envelope with the postmark, in which the February 12 Order was notified by regular mail, in any of its motions, nor they have submitted any other evidence in support of its claim that the requirement of information was notified on February 19, 2015.*

In any case, PREPA's arguments about the 10-day period to contest the February 12 Order have no practical value because, even if the Commission would have extended said time period, the "objections" PREPA presented in its March 11 motion are not legitimate objections pursuant to Act No. 170 and Section 15.05 of Regulation 8543, and thus, would have been denied by the Commission. See, Amended Final Resolution issued on March 20, 2015, p. 3-7.

As to the thirty (30) day period given to PREPA to submit the information required in the February 12 Order, the Commission understands that PREPA may need an extension of time based on the amount of documents and information requested. That is the reason why the Commission stated on said Order the instructions and procedures that PREPA must follow in order to obtain additional time to comply with the February 12 Order. See, February 12 Order, p. 18-19. *To this date, PREPA has not requested an extension of time according to said instructions nor has complied, not even partially, with the requirements of information contained in the February 12 Order.*

Furthermore, PREPA argues against the amount of information the Commission requested. After more than 70 years of operation without regulatory oversight, it should be no surprise that creating regulatory accountability will require large amounts of information. The Commission is aware that production of this information takes time and effort. But in the more than 40 days since the Commission's February 12 Order to produce information, PREPA has yet to submit a single document in compliance with said order. It has not even suggested, let alone committed to, a schedule by which it will provide the information. All PREPA has done is resist. In continuing to do so, it acts contrary to its interests and the law, as discussed in this Resolution and Order.

B) PREPA claims that it has already submitted responses to the February 12 Order

According to its Moción, PREPA argues that it has already submitted to the Commission some information in response to the February 12 Order. It is our understanding that PREPA is considering its comments on pages 3-16 of its Motion to Object to Certain Items of Order, as responses to some of the requirements of information contained in the February 12 Order. We disagree.

In its responses to the Commission's orders, PREPA must adhere to the procedures and instructions established by the Commission. The February 12 Order clearly stated that all "[r]esponses must be made in writing, separately, and under oath", "[e]ach response shall state the person responsible for that response", "[t]he identification of the document shall include: the name or title of the document, the document date, and the name of its author", "[i]f information, data or documents required for any requirement do not exist, the person to whom this request for information is directed shall so specify it in his or her reply to that request." See, February 12 Order, p. 3-5. In addition, see the guides and instructions provided in the Amended Final Resolution on how to respond to requirements of information.

Considering the above, PREPA's comments, arguments and statements presented in its Motion to Object to Certain Items of Order do not suffice. In consequence, they are not considered by this Commission as partial responses to the February 12 Order, since those comments, arguments and statements do not comply with the Commission's orders and instructions.

If PREPA has a genuine interest in defending and aligning its actions with the public interest, it shall submit the information required by the Commission in accordance to the Commission's orders and fully cooperate with this Commission in this investigation of unprecedented value for the People of Puerto Rico and of such significance to execute Act 57-2014 policies, mandates and objectives, instead of withholding information and delaying the investigation process.

C) PREPA claims that the measures the Commission has adopted to secure privileged or confidential information are insufficient purportedly because (i) those measures do not address the handling of such information internally in the Commission, and (ii) all information submitted to the Commission will become public once the investigation ends

According to PREPA, the Commission has construed PREPA's concerns about confidentiality as exclusively related to the access of Commission's consultants to information. See, Moción, p. 4-5. Thus PREPA argues that the Amended Final Resolution fails to address the rules and procedures related to the handling of confidential information internally at the Commission. PREPA's argument lacks merit.

On page 4 of the Amended Final Resolution, the Commission specifically stated:

The Commission will issue an order ***requiring individuals receiving confidential information to sign a nondisclosure agreement that will be attached to the order.*** We therefore invite PREPA to suggest language for such nondisclosure agreement within 3 days of receiving this Amended Final Resolution. We emphasize that our obligation to maintain confidentiality during an investigation is imposed, unambiguously, by Regulation 8543. We expect, therefore, that PREPA's suggestions will relate to *specific procedures and practices* that recipients shall follow in honoring the statutory obligation. [(Emphasis provided.)]

This paragraph unambiguously invited PREPA to suggest language for both agreements: (i) the nondisclosure agreement that any individual handling or receiving confidential information, *including the Commission's employees and members*, will be required to sign, and (ii) the confidentiality agreement between the Commission and its consultants.

Furthermore, Section 15.10 of Regulation 8543 provides that the file of the investigation will become public after the issuance and notification of the report, *excepting any information classified by the Commission as privileged or confidential during the investigation.* The details of the procedure that the Commission will follow pursuant to Section 6.15 of Act 57-2014 are consistent with such provision. PREPA's contention that the Commission's rules are insufficient to protect confidential information "because once the investigation ends 'all' the information will be available to the public" is incorrect. The procedure established in Part II above ensures that confidential information will be protected, and that PREPA can seek court review before any information it deems confidential goes to the public.

D) Commission's instructions as to questions and clarifications regarding the information requirements

In its Moción, PREPA alleges that the Commission has unreasonably circumscribed the informal solutions that agencies should encourage pursuant to Section 1.2 of Act No. 170, 3 L.P.R.A. § 2101, by stating in the Amended Final Resolution that if,

PREPA has any question about any of the requirements of information made in the February 12 Order [...], it shall state its question or need for clarification in writing and submit it by electronic mail to the General Counsel and copy consultants Scott Hempling, Stephen G. Hill and Ralph C. Smith. *While PREPA and the Commission's consultants may have verbal discussions about PREPA's questions for efficiency purposes*, all final questions and answers must be stated in writing. Verbal expressions and discussions about PREPA's questions will have no evidentiary value or effect. [(Emphasis provided.)]



PREPA concludes that the Commission has rejected the possibility of PREPA's and the Commission's consultants to discuss and delimit the information requirements. PREPA's conclusion lacks merits.

The Amended Final Resolution endorsed informal processes to facilitate the efficient resolution of matters before the Commission. See Amended Final Resolution, p. 7. Nonetheless, the Commission qualified this statement, by establishing that "all final questions and answers must be stated in writing." *Id.* It is a well-known principle that administrative agencies shall develop and maintain a reliable administrative record. Written statements as to the final questions and answers between PREPA and the Commission's consultants would better achieve that purpose. Without a written record, the Commission's record would lose reliability and give way to controversies over the procedures.

By requiring that all final questions and answers be stated in writing, the Commission was, precisely, seeking to avoid statements such as PREPA's allegation that, during the meeting held on March 4, 2015, PREPA and the Commission's consultants thought and agreed that the "hundred and thirty-five requirements" were unnecessary to obtain the information the Commission wants. See *Moción*, p. 15. This rule in no way prohibits meetings or oral discussions, and in no way defeated the March 4 meeting's purpose, but serves to maintain a reliable record about final questions, answers and agreements on how to respond to the Commission's requirements of information.

IV. Notification and filing of documents

Even though Act No. 170 nor Regulation No. 8543 expressly provide that the Commission will notify its orders and decisions by electronic mail, this type of notification has been accepted as sufficient in our legal system and is in complete harmony with the principles of that shall guide administrative procedures.³

The Puerto Rico Rules of Civil Procedure, which PREPA suggests the Commission to take as model and source of law, specifically allow the use of electronic mail as means of notification. In particular, Rules 67.1 and 67.2⁴ provide that any order issued by the court may be notified to the parties by electronic means. Pursuant to Rule 67.2 the notification is deemed effected at the moment the document is sent via electronic mail. In its March 2008 report, the Advisory Committee on the Rules of Civil Procedure explained that the inclusion of the notification via fax and electronic mail was intended to adapt the Rules of Civil Procedure to changes in technology. Specifically, the Committee followed a recommendation from the Futuristic Commission of the Courts, which "promotes that the

³ See, 3 L.P.R.A. § 2101 ("The provisions of this [statute] shall be construed liberally, thus guaranteeing that the administrative procedures shall be carried out in a speedy, fair and economical way that will ensure an equitable solution of the cases under the agency's consideration.")

⁴ 32 L.P.R.A. Ap. V, Rs. 67.1 and 67.2. In addition, Rule 71 of the Court of Appeals Regulation states that the court can notify its orders and resolutions by electronic mail.



judicial and administrative processes have the infrastructure and technology necessary to facilitate and speed them up."⁵ (Translation provided.)

In Puerto Rico, courts have been using electronic means of notification before the establishment and operation, as a pilot program, of the electronic filing system (SUMAC). We have not found any statutory provision conditioning the use of electronic mail, as a notification mechanism, to the availability of an electronic filing system. The notification of investigations, orders, interlocutory decisions and other documents *by the Commission to parties* is an example of the steps taken by this Commission towards modernization of the administrative proceedings.⁶

Considering the statutory mandate to use electronic means and adopt procedures consistent with modern trends, as stated in Article 6.18 of Act 57-2014, Regulation 8543 should be interpreted to promote speedy, fair and economical procedures. Moreover, the courts have accepted electronic mail as a valid and effective means of notification of their orders and decisions since it provides for faster and more economical processes.⁷ For these reasons, this Commission has adopted the practice of notifying its orders and decisions by electronic mail on the same day of issuance, in accordance with the General Counsel's certification (acting as Interim Secretary of the Commission).

After examining PREPA's Moción, the Commission recognizes the need to clarify the rules of notification of its orders and decisions. To that end, the Commission states as follows:

- A. *If an electronic mail address is available*, the Commission will notify its orders (related or not to adjudicative procedures) and interlocutory decisions by electronic mail. Any time period provided therein will be

⁵ Advisory Committee Report on the Rules of Civil Procedure, page 766 (2007), citing Informe: Visión en Ruta al Futuro, Comisión Futurista de los Tribunales, op. cit., Vol. I, pág. 96, available at: <http://www.ramajudicial.pr/sistema/supremo/informe-reglas-procedimiento-civil.pdf> ("Esta regla se establece en cumplimiento con una de las recomendaciones sugeridas por la Comisión Futurista de los Tribunales, la cual promueve que los procesos judiciales y administrativos dispongan de la infraestructura y tecnología necesaria para facilitarlos y agilizarlos.")

⁶ In addition, see, for example, Section 2.02 (E)(3) of Regulation 8543. In support of its argument that the Commission should notify its orders and decisions by regular mail, PREPA cites Section 3.05 (A)(1) of Regulation 8543. However, Section 3.05 (A)(1) is, in its face, inapplicable to the notification of the Commission's orders and decisions in this matter, since it refers to the rules that plaintiffs must follow in order to serve a defendant with a complaint or petition that initiates an adjudicative procedure before the Commission. In Lozada Sánchez v. JCA, 184 DPR 898 (2012) the Supreme Court of Puerto Rico, interpreting Rule 67 of Civil Procedure, validated the use of electronic mail notification, even though the specific rule in controversy provided that the notification shall be made by certified mail with confirmation of receipt or other personal delivery method with return receipt. In that case, PREPA was the party alleging electronic mail is a valid method of notification.

⁷ See, 32 LPRA Ap. V, Rs. 67.1 and 67.2; Lozada Sánchez, 184 DPR at 911-912; Advisory Committee Report, *supra*.

counted in conformity with the provisions of Section 1.09 of Regulation 8543 *from the date of the notification by electronic mail*. The Commission may also send a copy of the document by regular mail though its temporary Clerk.

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- B. Every final resolution or decision specifically governed by Sections 3.14 and 3.16 of Act No. 170 will be notified by certified and regular mail. Any time period will be counted in conformity with the provisions of Act No. 170 and Regulation 8543. The Commission may also send a copy of the document by electronic mail.
 - C. Every order, resolution or decision governed by Section 3.9 of Act No. 170 will be notified by regular mail. Any time period will be counted in conformity with the provisions of Act No. 170 and Regulation 8543. The Commission may also send a copy of the document by electronic mail.
 - D. Any party, including PREPA, that wishes, or that is obligated, to file a document with the Commission shall do so by filing the document in the temporary Clerk's office located at the Puerto Rico Telecommunications Regulatory Board. At this time, and until the electronic filing system is established, the Commission will not allow the filing of motions, petitions, complaints or briefs by electronic mail. This rule does not apply to responses to requirements of information where the Commission specifically authorizes or orders the submittal of the responses by electronic means.

V. PREPA's behavior, if it continues, will have consequences that are inconsistent with its own interests, the interests of its employees and its creditors, and the public interest

PREPA's behavior is against the spirit and provisions of Act 57-2014, as amended. Its resistance to cooperate with the Commission's investigation and its continuous non-compliance with our orders may result in any of the following actions:

- A. Denial of rate increase request due to failure of proof:** If PREPA's rates are currently below its costs, PREPA will, at some point in 2015, be requesting the Commission to change its rates. In seeking that increase, PREPA bears the burden of proof. See, Article 6.25 (b) of Act 57-2014. PREPA can meet the standard of proof only by producing the information the Commission determines necessary to establish that PREPA has meet said standard. The investigation in the matter In re: Investigation on the Rates of the Puerto Rico Electric Power Authority, CEPR-IN-2015-0002 is aimed at producing that information. In other words, if PREPA does not produce the information, it will not be able to prove the need and reasonableness of its proposed rates.



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B. **Declaration that PREPA's current rates are "interim subject to refund":** If PREPA's rates currently exceed its costs, ratepayers will be entitled to a rate decrease. If PREPA delays a Commission decision by unlawfully withholding information, consumers are denied the benefit of that rate decrease. Due to the general rule that prohibits retroactive ratemaking, that denial of benefit may be permanent to some extent, considering that if and when the Commission finally receives the information and sets a lower rate, the new rate can be effective only prospectively, excepting a scenario governed by subparagraphs (d) and (e) of Article 6.25 of Act 57-2014. PREPA's resistance to providing information could prevent consumers from receiving lower rates to which they might be entitled. These actions put the Commission in a difficult position. Since the Commission has the duty to protect the public's interest, we cannot lawfully tolerate a situation in which PREPA's unlawful behavior results in a permanent loss of savings to consumers. A solution to this situation is for the Commission to declare that PREPA's rates are "interim subject to refund." Doing so preserves the Commission's option, if and when it finally does set new, lower rates, to make those new, lower rates effective retroactive to the date of this declaration. The Commission is strongly considering this option at this time.

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VI. Compliance with the February 12 Order awaits

As stated before, this Commission still awaits for PREPA's compliance with the February 12 Order. PREPA must submit all the information required in the February 12 Order that, up until this date, has been able to obtain, organize, and process in accordance with the instructions stated therein and in the Amended Final Resolution.

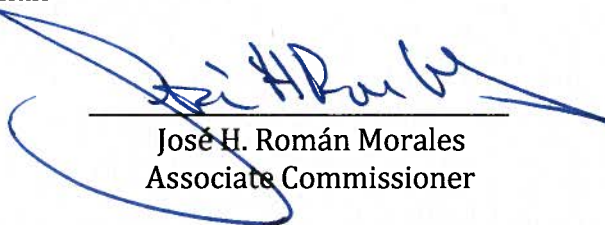
Be it hereby notified and published.



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 March 30 2015. I also certify that on this date a copy of this Resolution and Order was notified to PREPA by electronic mail sent to m-zambrana@aeep.com and j-concepcion@aeep.com.




Mariana I. Hernández Gutiérrez
General Counsel

CERTIFICATION

I certify that this is a true and exact copy of the Order issued by the Puerto Rico Energy Commission. I further certify that today March 31 2015, I have proceeded with the filing of this Order and I have sent a copy thereof to the:

Puerto Rico Electric Power Authority

To the Attention of Jorge Concepción Rivera and Maribel Zambrana García
PO Box 363928
Post Office Headquarters
San Juan, PR 00936-3928

For the record, I sign this in San Juan Puerto Rico, today March 31 2015.




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