

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

IN RE: INTEGRATED RESOURCE PLAN FOR  
THE PUERTO RICO ELECTRIC POWER  
AUTHORITY

**CASE NO.:** CEPR-AP-2015-0002

**SUBJECT:** PREPA'S MOTION TO RECONSIDER  
THE DECEMBER 4, 2015 ORDER ON IRP  
COMPLIANCE AND INTERVENORS'  
COMMENTS

**RESOLUTION AND ORDER**

Through Regulation No. 8594, known as the Regulation on the Integrated Resource Plan for the Puerto Rico Electric Power Authority ("Regulation 8594"), the Puerto Rico Energy Commission ("Commission") established the content requirements of the Puerto Rico Electric Power Authority's ("PREPA") first Integrated Resource Plan ("IRP") proposal. These requirements were designed based upon filing requirements established by other jurisdictions, the best practices of the electric power industry and PREPA's and Puerto Rico's unique situation.

PREPA filed its first IRP proposal on July 7, 2015 ("July IRP Filing"). On August 3, 2015, this Commission issued an Order directing PREPA to address a series of fundamental deficiencies identified during its preliminary assessment of PREPA's July IRP Filing that prevented a substantive evaluation of the adequacy of the IRP's conclusions. The areas of PREPA's July IRP Filing where deficiencies were identified include: (i) Supply Portfolio and Futures Analysis; (ii) Demand and Fuel Forecast and Demand Side Management; (iii) Air Quality Report; and (iv) Evaluation of DG Impact on the Distribution System. In identifying such deficiencies, this Commission also provided PREPA with the specific information and actions it needed to provide and take in order to correct the aforementioned deficiencies. Subsequently, PREPA was ordered to address the deficiencies in its IRP filing on or before August 17, 2015 ("August IRP Filing").

On August 10, 2015, PREPA filed a Notice of Status of Compliance with the August 3, 2015 Order notifying this Commission that it would be able to comply with the August IRP Filing with regards to Volumes I, III and IV. However, with regards to the update and correction of the information contained in Volume V of the IRP, PREPA requested a sixty (60) days extension. On August 14, 2015, this Commission issued an Order granting PREPA until September 30, 2015 to file Volume V of its updated IRP proposal.

As required by the August 14, 2015 Order, PREPA filed Volumes I, III and IV of the updated IRP on August 15, 2015 and Volume V of the updated IRP on September 30, 2015. On December 4, 2015, this Commission issued an Order notifying PREPA that it had once

again identified multiple deficiencies in the IRP proposal which prevented it from considering and approving an IRP that represents the least-cost alternative to manage resources, promotes the public policy of energy efficiency and conservation, ensures an adequate management of demand and complies with pertinent environmental regulations.

This Commission identified deficiencies on the following areas of PREPA's IRP proposal: (i) Demand Side Management – Energy Efficiency; (ii) Distributed Generation; (iii) Renewable Portfolio Standard; (iv) Demand Response; (v) Central Station Build-Out; (vi) Transmission; (vii) Storage Options; and (viii) Action Plan. To assist PREPA in correcting the deficiencies identified in the updated IRP proposal, this Commission provided detailed information, assumptions and steps which would assist PREPA in correcting and filling an updated IRP proposal which fully complies with Act 57-2014, Regulation No. 8594 and this Commission's orders. PREPA was provided with a filing timeline which required PREPA to submit specific information on January 15, 2016, February 2, 2016 and February 26, 2016, and established a final filing deadline of March 4, 2016.

On December 11, 2015, PREPA filed its Clarification Questions Regarding Order of December 4, 2015 requesting clarification of a number of requirements made by this Commission as part of its December 4, 2015 Order. Furthermore, PREPA stated that addressing those requests would require a time extension beyond the March 4, 2016 deadline. In support of its claim, PREPA stated that the "requests have extensive breadth and depth [and] are beyond the scope of PREPA's current contract with independent experts Siemens [thus] PREPA would need to amend the contract with Siemens to both extend the contracted term beyond February 26, 2015 and to increase the amount to be paid."<sup>1</sup>

As a result of PREPA's request, a meeting was held on December 22, 2015 during which the Commission answered PREPA's question and addressed all concerns it had regarding the December 4, 2015 Order. All intervenors were permitted to attend the meeting as observers. On December 24, 2015, PREPA filed a Motion to Reconsider the December 4, 2015 Order on IRP Compliance and Intervenors' Comments requesting this Commission to extend the March 4, 2016 deadline for a term of seven (7) months from the date in which PREPA's Governing Board approves an amendment of PREPA's contract with Siemens. PREPA estimated the Board meeting would take place on or around January 31, 2016. In addition, PREPA requested to eliminate the interim deadlines set in the December 4, 2015 Order.

PREPA justified its request by stating that since "[t]he Commission's requirements as originally stated and as clarified have very significant breadth and depth ... it will need additional time, beyond the deadlines specified in the Order, in order to comply with the Commission's directives"<sup>2</sup> and "the compliance effectively will require amending PREPA's contract with Siemens to extend the contract and increase the contract amount."<sup>3</sup> With

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<sup>1</sup> PREPA Clarification Questions Regarding Order of December 4, 2015, ¶¶ 4 – 6.

<sup>2</sup> PREPA's Motion to Reconsider the December 4, 2015 Order on IRP Compliance and Intervenors' Comments, ¶¶ 7 - 8.

<sup>3</sup> Id., ¶ 8.

regards to the amount of time required for PREPA to provide the information requested in the December 4, 2015 Order, PREPA stated that, given the timeframe allowed for the filing of its Motion, Siemens had only been able to perform a “very preliminary, high level analysis of the time required to comply with the Commission’s directives”<sup>4</sup> and that, as such, the time analysis stated on its Motion would “require further review and may need to be revised based upon the recording [of the meeting], the Minutes [of the meeting], and/or other factors, such as potential development relating to PREPA’s compliance with federal law (the federal environmental MATS standards) and developments regarding the restructuring of PREPA’s debt.”<sup>5</sup> Finally, PREPA stated that “further analysis by Siemens in the next two weeks may require PREPA to file a second motion for reconsideration, seeking further changes in the compliance schedule.”<sup>6</sup> As of the date of this Order, PREPA has not filed any supplemental motion requesting further changes to the compliance schedule.

PREPA fails to demonstrate, through actual facts, why the information requested cannot be provided within the filing deadlines set forth in the December 4, 2015 Order. PREPA also fails to demonstrate that the requested information is not included within the scope of its agreement with Siemens. A general claim regarding the scope of the information requested and/or the need for amending a contract is not sufficient to consider further delays to the current IRP proceeding. PREPA needs to present facts, not vague generalizations as to why they can not comply with the Commission’s orders. Both, the August 3, 2015 Order and the Commission’s First Requirement of Information to PREPA issued on September 24, 2015, put PREPA on notice regarding the need to provide the information that was requested in the December 4, 2015 Order. Furthermore, it is PREPA’s obligation to make all administrative arrangements necessary to ensure compliance with this Commission’s orders, including any amendments to its contract with Siemens. These Orders were sufficiently detailed so as to provide PREPA with the guidance it needed to comply with the Commission’s directives to correct the deficiencies that persisted in its IRP filings. Moreover, the Commission reminds PREPA that it has the burden of proof to demonstrate that its IRP is reasonable. Without amending the deficiencies noted by the Commission in its previous Orders, PREPA is at risk of failing to meet its burden of proof.

Moreover, PREPA fails to adequately explain why a seven (7) month extension for filing the required information is reasonable under the circumstances. PREPA never raised timing or contractual concerns when first notified of the information required in the August 3, 2015 Order and the First Requirements of Information to PREPA issued by this Commission. That this Commission is once again requesting similar information indicates PREPA’s reluctance to fully comply with Regulation 8594 and this Commission’s orders.

Furthermore, granting a seven (7) month extension, as requested by PREPA, would result in an overall delay of over one (1) year for PREPA to provide the requested information. Most of the information was first requested in August 2015. Therefore, if PREPA’s request is granted, it would be allowed to file its response by August 2016. Granting

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<sup>4</sup> Id. ¶ 11.

<sup>5</sup> Id. ¶ 12.

<sup>6</sup> Id. ¶ 15.

PREPA's seven (7) month extension would set a final IRP proposal filing date of August 31, 2016. Such an action defeats Act 57-2014's mandate of achieving meaningful reforms within a reasonable timeframe. Therefore, the Commission determines that a seven (7) month extension is unreasonable.

Nevertheless, this Commission deems it appropriate to amend the filing timeline established in the December 4, 2015 Order to provide additional time for PREPA to comply with this Commission's requests, based on the December 22, 2015 clarification meeting. As such, this Commission extends the filing timeline established in the December 4, 2015 Order as follows:

1. A description of its input assumptions concerning distributed generation, renewable energy, and demand response on or before **February 5, 2016**.
2. A description of the new central station build-outs and the methodology used to develop them for the IRP supplement on or before **February 23, 2016**.
3. A description of its evaluation of transmission and storage in the IRP supplement on or before **March 18, 2016**.
4. Final IRP proposal filing on or before **March 28, 2016**.

In light of the aforementioned, this Commission **DENIES** PREPA's request for time extension and **ORDERS** PREPA to comply with the filing timeline as set forth in this Order. Should PREPA fail to comply with this Order, it will be subject to administrative penalties and fines of up to a maximum of twenty-five thousand dollars (\$25,000.00) per day of violation, without further notice.<sup>7</sup>

Be it hereby notified and published.

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Agustín F. Carbó Lugo  
Chairman

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Ángel R. Rivera de la Cruz  
Associate Commissioner

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José H. Román Morales  
Associate Commissioner

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<sup>7</sup> See, Article 6.37 of Act 57-2014, as amended; Section 12.02 of Regulation No. 8543, known as the Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures.

I hereby certify that the Puerto Rico Energy Commission has so agreed on January \_\_\_\_, 2016. I also certify that on this date a copy of the Resolution and Order was notified by electronic mail sent to:

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Brenda Liz Mulero Montes  
Interim Secretary

#### 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, January \_\_\_\_, 2016, I have proceeded with the filling of this Order and I have sent a copy thereof to:

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

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