

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

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

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

**MATTER:** PREPA'S MOTION TO  
RECONSIDER REGARDING THE  
DECEMBER 4, 2015 ORDER AS MODIFIED  
BY THE JANUARY 15, 2016 ORDER

**RULING AND ORDER**

On January 28, 2016, the Puerto Rico Electric Power Authority ("PREPA") filed a motion to reconsider entitled *PREPA's Motion to Reconsider the December 4, 2015 Order as Modified by the January 15, 2016 Order* ("Second Motion") before this Puerto Rico Energy Commission ("Commission"). In its Second Motion, PREPA requests that this Commission reconsider the schedule established in the December 4, 2015 Order ("December 4 Order"), as modified by the January 15, 2016 Order ("January 15 Order").

For the reasons set forth below, the Commission **DENIES** the request for an extension of time requested by PREPA. Nevertheless, the dates scheduled in the January 15 Order are partially modified for the purposes of ensuring compliance with the Commission's regulatory processes in the review and approval of the Integrated Resource Plan ("IRP").

**I. Background**

By means of the December 4 Order, the Commission ordered PREPA to amend its updated IRP, with the purpose of correcting certain deficiencies identified by the Commission. Likewise, PREPA was granted three (3) months to submit these amendments to its IRP.<sup>1</sup> Additionally, through the December 4 Order, the Commission ordered PREPA to discover and submit on specific dates certain assumptions made in the IRP. Subsequently, on December 22, 2015, a Clarification Meeting took place, during which the Commission clarified PREPA's questions with regard to the requirements of the December 4 Order. On December 24, 2015, PREPA requested an extension of seven (7) months in order to comply with the requirements of the December 4 Order.

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<sup>1</sup> Said time period originally expired on March 4, 2016.

On January 15, 2016, the Commission denied the seven-month (7) extension requested by PREPA. Instead, the Commission granted PREPA a three-week (3) extension so that it may submit all the information required by the December 4 Order. PREPA then filed the Second Motion, which we now proceed to rule on.

## **II. PREPA's Second Motion**

In its Second Motion, PREPA posits that the time granted by the Commission during which to comply with the requirements of the December 4 Order is insufficient, since they are comprehensive and require a substantial amount of work.<sup>2</sup> According to PREPA, its external consultant estimated it needs a total two thousand eighty (2,080) hours to carry out the analyses and work necessary to comply with the requirements of the December 4 Order.<sup>3</sup>

Additionally, PREPA estimated it needs between twenty-two (22) and twenty-four (24) weeks, beginning on the date the agreement between the external consultant and PREPA was amended, to carry out the work plan as provided by the consultant.<sup>4</sup> Likewise, PREPA argued that the different tasks cannot be carried out concurrently, as they are interdependent, and the work required is outside the realm of the current agreement with its external consultant.<sup>5</sup> Finally, it requested the extension of several deadlines set in the December 4 Order and a final deferment until August 8, 2016 so that it may comply with the order's remaining provisions.

## **III. The Commission's Decision**

Having evaluated PREPA's Second Motion, the Commission denies the request for an extension of time. We are not persuaded by PREPA's argument stating that they require little over half a year to comply with the requirements of the December 4 Order.<sup>6</sup> Nor are we convinced by PREPA's argument that the contractual situation with its external consultant is an obstacle for compliance with all the requirements of the December 4 Order.

It is a common industry practice that regulators require additional information and analysis from electric service companies during an IRP review and approval process. Therefore, PREPA should have anticipated that it would be required to provide

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<sup>2</sup> See Second Motion on pg. 8.

<sup>3</sup> See *Id.* on pg. 9 ¶13.

<sup>4</sup> See *Id.* on pgs. 9 ¶14, 10 ¶16. According to PREPA, the agreement was reached around February 16, 2016.

<sup>5</sup> See *Id.* on pg. 9 ¶14.

<sup>6</sup> "[T]he decisions of administrative fora are sheathed in the presumption that they are regular and correct." See Ibarra González v. Depto. de Rehabilitación y Corrección, 2015 WL 7138288 \*3 (Nov. 3, 2015), citing González Segarra et al. v. DRNA, 188 DPR 564 (2013), citing Empresas Loyola v. Com. Ciudadanos, 186 DPR 1033 (2012); Acarón et al. v. DRNA, 186 DPR 564 (2012); See also Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc., 435 US 519, 524 (1978); Article 6.37 of Law 57-2014, as amended.

additional information, and as a result, it should have acquired the resources necessary to facilitate the process, including all contractual agreements with its consultants and advisors.

Moreover, the Commission's order requires PREPA to provide an explanation and additional information that would allow the Commission to understand and evaluate the basis and methodologies used by PREPA to reach certain conclusions, as well as other analyses presented in the IRP. To that end, the Commission has provided PREPA with direction and clear parameters to be integrated into its models, with the purpose of allowing PREPA to carry out the requested analyses. Nevertheless, PREPA's interpretation regarding this Commission's requirements is more extensive and complex than what the order requires. This conclusion is based on the fact that PREPA believes that it is not possible to comply with the procedural schedule set by the Commission. We stress that both the original schedule and the amended schedule established by the Commission are reasonable and consistent with best industry practices.

Furthermore, the estimate for complying with the parameters of the December 4 Order presented by PREPA is excessive and has no relation to the requirements of said order. Similarly, the proposal of PREPA's consulting company surpasses what is required in the December 4 Order. According to the Commission's estimates, all of the required analyses can be completed within a significantly shorter timeframe, which would allow PREPA to avoid incurring in additional, excessive expenses, as suggested by their motion.

It is essential that PREPA should have at its disposal all the resources necessary to comply with this Commission's orders throughout the entire process of IRP evaluation. PREPA has the obligation to and is responsible for performing all of the actions necessary with the purpose of identifying the most efficient methodology and resources for complying with this Commission's orders without incurring in unreasonable expenses. This includes carrying out all work within its area of expertise, as well as providing information required by the Commission that is in PREPA's possession as part of its day-to-day operations, without having to use external consultants.

We must point out that PREPA has in its possession substantial information that would allow it to comply with Sections 3.c, 4.a, 6.a, and 8 of Part I of the December 4 Order without having to incur in a contract extension with its external consultant.

Now then, with regard to the requirements in Section 6(c) of Part I of the December 4 Order, regarding transmission, the Commission must, once again, clarify for PREPA what is expected of it. Specifically, the Commission requires that PREPA evaluate the transmission requirements for the revised scenarios, should they be different, and that it identify which elements of the planned or future transmission improvements can be avoided or deferred based on the revised scenarios. The purpose of this analysis is to identify the capital allotted for transmission, if any, that may be avoided through alternative scenarios. The Commission does not require that PREPA provide specific transmission plans.

Furthermore, and with the purpose of accelerating compliance with the December 4 Order, we temporarily release PREPA from the obligation to comply with the provisions of Section 7 of Part I of the December 4 Order regarding storage options. We shall notify PREPA in the future of the date when it must file said information.

Finally, and in the interest of ensuring full compliance with the requirements of the December 4 Order, we modify some of the dates established on the December 4 Order, as amended by the January 15 Order. To that effect, we extend the time periods included in the schedule as follows:

- The description of the assumptions in the data used by PREPA to carry out its distributed generation, renewable energy, and demand response analyses must be provided to the Commission on or before **February 26, 2016**.
- The description of the new expansions for central generation plants and the methodology used to develop them in the IRP rider must be provided to the Commission on or before **March 18, 2016**.
- The description of the transmission and storage evaluation performed by PREPA in the IRP rider must be provided on or before **March 18, 2016**.
- The final deadline for the IRP proposal must be submitted on or before **March 28, 2016**.

The Commission reminds PREPA that the information it is required to submit on the dates set forth above are explanatory memoranda regarding the matters indicated in each of the bullet points above. None of these bullet points requires PREPA to establish new models or their results. The remaining requirements as described in Part I of the December 4 Order are due on March 28, 2016, the deadline for the final IRP as indicated above.

Finally, we must mention that PREPA has the burden of proof to demonstrate that the IRP is reasonable and is the least cost alternative. Noncompliance with the Commission's orders or failure to provide the information requested within the established timeframe may result in a finding on the part of the Commission that the IRP is deficient, and as a result the Commission may decide to not approve it.

In light of the preceding, this Commission **DENIES** the request for additional time filed by PREPA in its Second Motion and **ORDERS** PREPA to comply with the schedule deadlines and the remaining requirements as provided in this Ruling and Order. Should PREPA fail to comply with what is provided in this Ruling and Order, it may be subject to penalties and administrative fines amounting to a maximum of twenty-five thousand dollars

(\$25,000.00) for every day it is in 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

I certify that on February 9, 2016 the Puerto Rico Energy Commission so agreed. I further certify that today, February 9, 2016 I have notified a copy of this order to

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Brenda Liz Mulero Montes  
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<sup>7</sup> See Article 6.37 of Law 57-2014, as amended; Section 12.02 of Regulation no. 8543 known as the Regulation on Adjudicative, Notice of Compliance, Rate Review, and Investigation Procedures.

CERTIFICATION

I certify that this document is a true and exact copy of the Ruling and Order issued by the Puerto Rico Energy Commission. I further certify that today, February 10, 2016, I have recorded this Ruling and Order in the case file and I have notified a copy of it to:

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In witness whereof, I sign this document in San Juan, Puerto Rico on February 10, 2016.

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Rafael O. García Santiago  
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