



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

**IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY RATE REVIEW**

**CASE NO.: CEPR-AP-2015-0001**

**Subject: Production of Documents.**

**ORDER**

On August 31, 2016, the Puerto Rico Energy Commission ("Commission") adopted Resolution No. CEPR-MI-2016-0009 ("August 31 Resolution") which sets forth the rules and procedures applicable to the filing, evaluation, treatment and handling of confidential information. The August 31 Resolution provides the necessary safeguards to ensure the adequate handling and treatment of confidential information and adopts the prevailing legal and procedural standards generally applied to the evaluation, treatment and handling of confidential information. The main of such safeguards is the presumption that any document or information for which confidential treatment is sought is deemed confidential until the Commission determines otherwise. Furthermore, in the event that the Commission determines that certain document or information does not warrant confidential treatment, the producing party, or any other party affected by the disclosure of such information, may seek those remedies it deems appropriate within a term of thirty (30) days from the date in which the Commission issues its determination.

On October 20, 2016, the Commission held a Clarification Conference Call with all parties to this proceeding. In such call the Commission required the Puerto Rico Electric Power Authority ("PREPA") produce an un-redacted copy of currently-active maintenance contracts for the San Juan generation unit. On October 26, 2016 PREPA filed a redacted copy of a Long Term Service Agreement between PREPA and MHPS Puerto Rico, LLC ("PREPA-MHPS Agreement")<sup>1</sup> along with a letter from MHPS Puerto Rico, LLC ("MHPS") highlighting the confidential nature of certain information contained in the PREPA-MHPS Agreement and requesting the Commission to adhere to certain terms and conditions regarding treatment of confidential information contained in said Agreement.<sup>2</sup> PREPA did not comply with the Commission's requirement to produce an un-redacted copy of the PREPA-MHPS Agreement.

---

<sup>1</sup> San Juan Combined Cycle Units 5 and 6 Long Term Services Agreement Between Puerto Rico Electric Power Authority & HPS Puerto Rico, LLC.

<sup>2</sup> MHPS's argues that the information contained in the service agreement is considered proprietary information which is not known to the public, is commercially sensitive, and shall be treated as protected trade secret.

Act 57-2014<sup>3</sup> grants the Commission ample powers and jurisdiction to review, oversee and regulate Puerto Rico's electric market.<sup>4</sup> Accordingly, Act 57-2014 provides that the Commission's jurisdictions shall extend to "any natural or legal person whose actions affect the provision of electric power services"<sup>5</sup> and "any natural or legal person whose actions or omissions are in prejudice to the activities, resources or interests over which the Commission has regulatory, investigative, adjudicative, or oversight powers."<sup>6</sup> To ensure compliance with its statutory obligations and responsibilities, Act 57-2014 grants the Commission the power to "require and gather any pertinent or necessary information to properly carry out its powers and duties" including to "require the production and inspection of documents of any legal person or entity subject to the Commission's jurisdiction."<sup>7</sup>

Within the context of the Commission's review of PREPA's rates, and within the Commission's obligation to ensure that PREPA's rates are just and reasonable and consistent with sound fiscal and operational policies, PREPA's maintenance service agreements are relevant and play a central role in this proceeding. By filing a redacted copy of the PREPA-MHPS Agreement along with a letter from MHPS requiring the Commission to adhere to the terms and conditions set forth in such service agreement, PREPA failed to comply with the procedures set forth by the Commission in its August 31 Resolution and prevents the Commission from complying with its regulatory responsibilities. Furthermore, the Commission notes that Article 17, Section 17.4 of the PREPA-MHPS Agreement contemplates several circumstances in which the parties to the Agreement may produce information deemed confidential, among them, when the requirement is made by a regulatory agency or is required by applicable law.<sup>8</sup>

In light of the above, PREPA's unwillingness and delay in providing an un-redacted copy of the PREPA-MHPS Agreement due to concerns related to the treatment of confidential information is unjustified, inexcusable and constitutes a direct challenge to the Commission's powers and jurisdiction.

PREPA is hereby **ORDERED** to produce an un-redacted copy of the PREPA-MHPS Agreement no later than **November 7, 2016 on or before 4:30 p.m.** PREPA shall include along with its filing any corresponding confidentiality claim pursuant to the requirements establish by the August 31 Resolution.

---

<sup>3</sup> The Puerto Rico Energy Transformation and RELIEF Act, as amended.

<sup>4</sup> Act 57-2014, Article 6.3(a).

<sup>5</sup> Act 57-2014, Article 6.4 (b)(3)

<sup>6</sup> *Id.*, Article 6.4(b)(5).

<sup>7</sup> Act 57-2014, Section 6.3(l) and 6.3(nn)(6).


<sup>8</sup> See, PREPA-MHPS Agreement: "the Parties may release such information: (a) to [...] regulatory agencies and other parties to the extent necessary to perform their respective obligations under this Contract, [...] or (c) as required by applicable law."



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

Be it notified and published.

  
 Agustín F. Carbó Lugo  
 Chairman

  
 José H. Román Morales  
 Associate Commissioner

## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Commission has so agreed on November 4, 2016. The Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. On this date a copy of this Order was notified by electronic mail to the following: n-ayala@aepr.com, c-aquino@aepr.com, glenn.rippie@r3law.com, michael.guerra@r3law.com, john.ratnaswamy@r3Law.com, codiot@opic.pr.gov, jperez@oipc.pr.gov, 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, maribel.cruz@acueductospr.com, eirizarry@ccdlawpr.com and pnieves@vnblegal.com. I also certify that today, November 4, 2016, I have proceeded with the filing of the Order issued by the Puerto Rico Energy Commission and I have sent a true and exact copy to the following:

### **Puerto Rico Electric Power Authority**

Attn.: Nérida Ayala Jiménez  
 Carlos M. Aquino Ramos  
 P.O. Box 363928  
 Correo General  
 San Juan, PR 00936-4267

### **Rooney Rippie & Ratnaswamy LLP**

E. Glenn Rippie  
 John P. Ratnaswamy  
 Michael Guerra  
 350 W. Hubbard St., Suite 600  
 Chicago Illinois 60654

### **Oficina Independiente de Protección al Consumidor**

p/c Lcdo. José A. Pérez Vélez  
 Lcda. Coral M. Odio Rivera  
 268 Hato Rey Center  
 Suite 524  
 San Juan, Puerto Rico 00918

### **Sunnova Energy Corporation**

p/c Vidal, Nieves & Bauzá, LLC  
 Lcdo. Pedro J. Nieves Miranda  
 P.O. Box 366219  
 San Juan, PR 00936-6219



**Autoridad de Acueductos y  
Alcantarillados de Puerto Rico**  
p/c Lcda. Maribel Cruz De León  
PO Box 7066  
San Juan, Puerto Rico 00916

**Autoridad Acueductos y  
Alcantarillados de Puerto Rico**  
Lcdo. Pedro Santiago Rivera  
305 Calle Villamil, 1508  
San Juan, Puerto Rico 00907

**Asociación de Constructores de  
Puerto Rico**  
p/c Lcdo. José Alberto Feliciano  
PO Box 192396  
San Juan, Puerto Rico 00919-2396

**Centro Unido de Detallistas, Inc.**  
Lcdo. Héctor Fuertes Romeu  
PMB 191 – PO Box 194000  
San Juan, Puerto Rico 00919-4000

**CEMEX de Puerto Rico, Inc.**  
Lcdo. Edwin A. Irizarry Lugo  
CCD Law Group, P.S.C.  
712 Ave. Ponce de León  
San Juan, Puerto Rico 00918

**CEMEX de Puerto Rico, Inc.**  
p/c Enrique A. García  
Lcda. Nydin M. Watlington  
PO Box 364487  
San Juan, Puerto Rico 00936-4487

**Asociación de Consultores y Contratistas de  
Energía Renovable de Puerto Rico**  
p/c Edward Previdi  
PO Box 16714  
San Juan, Puerto Rico 00908-6714

**Energy & Environmental Consulting  
Services Corp.**  
Jorge Hernández, PE, CEM, BEP  
560 C/ Aldebarán, Urb. Altamira  
San Juan, Puerto Rico 00920

**Cámara de Comercio de Puerto Rico**  
p/c Eunice S. Candelaria De Jesús  
PO Box 9024033  
San Juan, Puerto Rico 00902-4033

**Asociación de Industriales de  
Puerto Rico**  
p/c Manuel Fernández Mejías  
2000 Carr. 8177, Suite 26-246  
Guaynabo, Puerto Rico 00966

**Cámara de Mercadeo, Industria y  
Distribución de Alimentos**  
p/c Lcdo. Manuel R. Reyes Alfonso  
#90 Carr. 165, Suite 501  
Guaynabo, Puerto Rico 00968-8054

**Instituto de Competitividad y  
sostenibilidad Económica de  
Puerto Rico**  
p/c Lcdo. Fernando E. Agrait  
701 Ave. Ponce de León  
Edif. Centro de Seguros, Suite 401  
San Juan, Puerto Rico 00907

**Oficina Estatal de Política Pública Energética**  
p/c Ing. José G. Maeso González  
Lcdo. Edwin J. Quiñones Porrata  
P.O. Box 41314  
San Juan, Puerto Rico 00940

**Asociación de Hospitales de Puerto  
Rico**  
p/c Lcda. Marie Carmen Muntaner  
Rodríguez  
470 Ave. Cesar González  
San Juan, Puerto Rico 00918-2627



**Grupo Windmar**

p/c Lcdo. Marc. G. Roumain Prieto  
1702 Ave. Ponce de León, 2do Piso  
San Juan, Puerto Rico 00909

For the record, I sign this in San Juan, Puerto Rico, today, November 4, 2016.

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

María del Mar Cintrón Alvarado  
Clerk