



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

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

CASE NO.: CEPR-AP-2015-0001

SUBJECT: Long Term Service Agreement for
the San Juan generation Unit Confidentiality
Request.

RESOLUTION

On October 20, 2016, the Puerto Rico Energy Commission ("Commission") held a Clarification Call to address certain issues on the present case. During the call the Commission requested the Puerto Rico Electric Power Authority ("PREPA") certain documents and information, which it then formally requested through a letter sent on October 21, 2016. Specifically, the Commission requested PREPA to provide unredacted copies of currently-active maintenance contracts for San Juan (Hitachi-Mitsubishi) and Cambalache (GE) generation units.

On October 26, 2016, PREPA filed an unredacted version of the Cambalache (GE) contract and a redacted copy of a Long Term Service Agreement between PREPA and MHPS Puerto Rico, LLC ("PREPA-MHPS Agreement")¹ for the San Juan generation unit. The filing included a letter from MHPS Puerto Rico, LLC ("MHPS") highlighting the confidential nature of certain information contained in the PREPA-MHPS Agreement. For this reason, MHPS requested the Commission to adhere to certain terms and conditions regarding treatment of confidential information contained in said Agreement.² On November 4, 2016 the Commission issued an Order in which it determined that PREPA did not comply with the Commission's requirement to produce an unredacted copy of the PREPA-MHPS Agreement and ordered PREPA to file an unredacted version by November 7, 2016 along with any corresponding confidentiality claim pursuant to the Commission's confidentiality procedures.

On November 10, 2016 PREPA filed an unredacted copy of the PREPA-MHPS Agreement along with a motion requesting confidentiality treatment. In support of its request for confidentiality, PREPA argued that the document contains trade secrets. Act 80-2011³ requires PREPA to demonstrate that the information it deems a trade secret has a real or potential independent economic value, or that the information provides a competitive advantage since such information is not readily accessible to the public.

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

² MHPS argued 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.

³ Industrial and Trade Secret Protection Act of Puerto Rico, as amended.


In its motion, PREPA argued that the information contained in the PREPA-MHPS Agreement is proprietary and confidential property of MHPS or its affiliate, is not known to the general public, is deemed by MHPS to be commercially sensitive, and is protected trade secret under Act 80-2011.⁴ PREPA argued that disclosure of the information contained in the PREPA-MHPS Agreement could cause a significant and irreversible impairment of MHPS's ability to compete, as the information is related to its pricing, insurance coverages, and risk acceptance. PREPA adds that the information in the agreement is also *de facto* information of PREPA, in the sense that the protection of such confidential information directly impacts its business relationship with MHPS. PREPA also argued that the release of the information has an independent economic value to MHPS and PREPA, and could be used by a competitor to reduce or eliminate the competitive advantage of both entities, resulting in the loss of business for both PREPA and MHPS. PREPA stressed the importance of maintaining the trust and confidence of a business partner, as recognized by Act 80-2011, were if PREPA were to compromise its relationship with its business partners, it could potentially lose important business and hence its ability to operate.

Finally, PREPA requests that due to the nature of the information contained in the PREPA-MHPS Agreement, which is considered highly confidential information of MHPS, a non-regulated entity with whom PREPA continues to negotiate, such information should only be available to the Commission and not to intervenors, even if they have executed a non-disclosure agreement.

After reviewing PREPA's arguments in support of its request, the Commission **GRANTS** PREPA's request for confidentiality. The Commission also **GRANTS** PREPA's request not to disclose the unredacted version of the Agreement to any intervenor.

For the benefit of all the parties involved, the Commission issues this Resolution in both Spanish and English languages. Should any conflict 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

⁴ 10 L.P.R.A. § 4132.

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Commission has so agreed on November 22, 2016 and on this date a copy of this Resolution was notified by electronic mail to the following: n-ayala@aeep.com, c-aquino@aeep.com, glenn.rippinge@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, epenenergypr@gmail.com, jorgehernandez@escopr.net, ecandelaria@camarapr.net, pga@caribe.net, manuelgabrielfernandez@gmail.com, eirizarry@ccdlawpr.com, agraitfe@agraitlawpr.com, maribel.cruz@acueductospr.com, mgrpcorp@gmail.com, attystgo@yahoo.com and pnieves@vnblegal.com. I also certify that today, November 22, 2016, I have proceeded with the filing of the Resolution 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 Rippinge & Ratnaswamy LLP

E. Glenn Rippinge
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. Odier 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

Asociación de Hospitales de Puerto Rico

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

**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

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 22, 2016.

María del Mar Cintrón Alvarado
Clerk