

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

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: CEPR-AP-2015-0001

SUBJECT: Resolution in Response to
PREPA's May 25, 2017 Motion.

RESOLUTION

On January 10, 2017, the Puerto Rico Energy Commission ("Commission") issued its Final Resolution and Order ("Final Order") through which it approved the Puerto Rico Electric Power Authority's ("PREPA") revenue requirement for Fiscal Year 2017 and a yearly budget review and rate update procedure to periodically review PREPA's revenue requirement and adjust rates accordingly.¹ The Commission required PREPA to "no later than January 31, 2017, propose a schedule of technical conferences [the purpose of which was to] provide any necessary clarification of the directives contained in this order and to determine the deadlines for compliance with them."²

On March 8, 2017, the Commission issued a Final Resolution addressing a Motion for Clarification and a Motion for Reconsideration filed by PREPA on January 20, 2017 and January 30, 2017, respectively. Through said Final Resolution, the Commission provided further guidance and clarification with regards to the yearly budget review and rate update procedure approved by the Commission through its Final Order.

On May 19, 2017, the Puerto Rico Electric Power Authority ("PREPA") filed a *Verified Motion for Technical Conference* requesting the Commission initiate a technical conference to "clarify and discuss the directives and deadlines contained in the Final [Order...] in light of Act 26-2017 and the FOMB Resolution."³

On May 25, 2017, the Commission informed PREPA that a technical conference to discuss the topics identified by PREPA in its *Verified Motion* (including compliance with the implementation of an FRM, as required by the FOMB Resolution) would be useful only if

¹ See, in general, Part 4 of the Commission's Final Order.

² See Commission's Final Resolution and Order at p. 3.

³ *Id.* at p. ¶6. Act 26-2017 refers to the Fiscal Plan Compliance Act and the FOMB Resolution refers to the Resolution adopted by the Fiscal Oversight and Management Board for Puerto Rico ("FOMB") on April 28, 2017. Through said Resolution, the FOMB granted PREPA 30 days, beginning on April 28, 2017, to "work with" the Commission to develop an implementation plan for a Formula Rate Mechanism.

preceded by PREPA's submission of a written proposal consistent with the principles established in Part Four of the Commission's Final Order and the Final Resolution.

On May 25, 2017, PREPA sent an electronic response in which it declined to provide a written proposal until after such proposal was filed with the FOMB and requested postponement of the technical conference until a later date.⁴

Given PREPA's failure to submit a written proposal for Commission review, even though the Commission's proposed rate update procedure has been in place since January 10, 2017, and in light of its own statements that a technical conference would not be fruitful,⁵ the technical conference call scheduled for today, May 26, 2017 at 3:00 p.m. is hereby **CANCELLED**.

PREPA cites the existing of FOMB, AAFAF and the Committee established by Act 26-2017⁶ as reasons for its inaction. As explained in the separate Resolution issued today rejecting PREPA's motions for stay,⁷ there has been no change to the Commission's duties under Act 57-2014,⁸ or to PREPA's obligations to comply with Commission orders issued under Act 57-2014. There is no legal or practical conflict between those duties, and those associated with the three above-mentioned entities. The Commission is currently pursuing discussions with those three entities, for purposes of creating the legal clarity necessary to remove any asserted excuse by PREPA for its inaction. In the meantime, PREPA shall carry out each of its obligations as determined by this Commission.

Finally, the Commission reiterates principles that are central to a modern, efficient and low-cost electric service:

1. PREPA's rates must be "just and reasonable."
2. Rates are not just and reasonable if they recover costs determined by the Commission to be imprudent.

⁴ See PREPA's Response to the Commission's Order Regarding PREPA's Request for a Technical Conference.

⁵ PREPA's Response at ¶8.

⁶ See Article 4.02 of The Fiscal Plan Compliance Act.

⁷ See the joint Resolution on Motions to Stay issued in cases CEPR-AP-2015-0001, CEPR-AP-2017-0001 and CEPR-IN-2016-0002.

⁸ The Puerto Rico Energy Transformation and RELIEF Act.

3. Given PREPA's nonprofit status and its obligations to bondholders, once PREPA incurs costs, whether prudent or imprudent, those costs must be recovered in rates.
4. Therefore, the only way ensure that rates are just and reasonable, i.e., rates that include no imprudent costs, is for the Commission to prevent imprudent costs before they are incurred.

Any PREPA proposal that fails to honor these principles is inconsistent not only with Act 57-2014 but with the goals laid out by the Governor of Puerto Rico of ensuring PREPA provides modern, high quality electric service at competitive prices which promote economic development. The Commission warns PREPA that any costs, including costs for attorneys or consultants, incurred to advance proposals inconsistent with these principles are against the public interest and inconsistent with the just and reasonable standard.

Be it notified and published.


 Ángel R. Rivera de la Cruz
 Associate Commissioner


 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 May 26, 2017 and on this date a copy of this Resolution regarding the Case No. CEPR-AP-2015-0001 was notified by electronic mail to the following: j-morales@acepr.com, n-vazquez@acepr.com, n-ayala@acepr.com, c-aquino@acepr.com, codiot@oipc.pr.gov, jperez@oipc.pr.gov, attystgo@yahoo.com, maribel.cruz@acueductospr.com, pga@caribe.net, jfeliciano@constructorespr.net, nydinmarie.watlington@cemex.com, eirizarry@ccdlawpr.com, epenergypr@gmail.com, aconer.pr@gmail.com, glenn.rippie@r3law.com, john.ratnaswamy@r3law.com, michael.guerra@r3law.com, pnieves@vnblegal.com, abogados@fuerteslaw.com, jorgehernandez@escopr.net, ecandelaria@camarapr.net, agraitfe@agraitlawpr.com, francisco.rullan@aae.pr.gov, mgrpcorp@gmail.com, manuelgabrielfernandez@gmail.com, mmuntanerlaw@gmail.com, licenciadasferrer@gmail.com and wilma.lopez@aae.pr.gov. I also certify that today, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Commission and I have sent a true and exact copy to the following:



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For the record, I sign this in San Juan, Puerto Rico, today, May 24, 2017.

A handwritten signature in blue ink, which appears to read 'M. Cintrón', is written over a horizontal line. Below the line, the name 'María del Mar Cintrón Alvarado' and the title 'Clerk' are printed in a black, sans-serif font.

María del Mar Cintrón Alvarado
Clerk