



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

**IN RE: AGUIRRE SITE ECONOMIC  
ANALYSIS**

**CASE NO.: CEPR-AP-2017-0001**

**SUBJECT: PREPA's Motion for Extension of  
Time to Submit LNG Market Research.**

**RESOLUTION AND ORDER**

On February 10, 2017, the Puerto Rico Energy Commission (“Commission”) issued an Order Initiating the Proceeding on the Aguirre Site Economic Analysis (“Initial Order”), in which, among other things, it established the filing requirements for the economic analysis to be submitted by the Puerto Rico Electric Power Authority (“PREPA”), including the submittal of a LNG Market Research report. PREPA filed its economic analysis on April 21, 2017, and filed updated versions on April 25, 2017 and April 28, 2017. PREPA’s economic analysis and subsequent updates did not include the LNG Market Research report required by the Commission’s Initial Order. After several informal requests from the Commission’s Staff for PREPA to file the missing information, on May 16, 2017, the Commission issued an Order requiring PREPA to submit the LNG Market Research report no later than May 22, 2017. The Commission warned PREPA that noncompliance with the Commission’s Order could result in administrative sanctions.

On May 22, 2017, PREPA filed a motion requesting until May 30, 2017 to comply with the Commission’s Order and to file the LNG Market Research report. PREPA argued that it continued to work on the Non-Disclosure Agreements that the third parties have required in order to authorize PREPA to use and disclose information contained in the LNG Market Research report. On May 30, 2017, PREPA failed to file the required information.

As established by the Commission in its previous orders, the LNG Market Research report is an essential component of the analysis being performed in this proceeding. This report provides the information necessary to determine the reasonability of the fuel cost assumptions used by PREPA to develop its economic analysis and ensures such assumptions are consistent with generally accepted market projections. The lack of such information prevents the Commission and PREPA from conducting a comprehensive cost-benefit analysis of the Aguirre Site and may lead to increased uncertainty regarding the economic costs and benefits to be derived from PREPA’s Aguirre Site proposal.

Act 57-2014<sup>1</sup> bestows upon the Commission the responsibility of approving PREPA’s Integrated Resource Plan (“IRP”) and ensuring the infrastructure investment contained therein represent the least-cost alternatives for PREPA’s ratepayers, while at the same time ensures PREPA’s constant technological evolution. The Economic Analysis of the Aguirre Site

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<sup>1</sup> Puerto Rico Energy Transformation and RELIEF Act, as amended.

is a key component of the Commission's responsibility of determining a least-cost path towards PREPA's modernization.

PREPA cannot deny the Commission, subject to very limited exceptions, access to information relevant to its statutory duties and responsibilities. Administrative agencies have the authority to request information from the entities or people subject to its jurisdiction,<sup>2</sup> as long as it is in the area of interests of the agency and contemplated in the laws in question.<sup>3</sup> Accordingly, consistent with long-standing legal principles, PREPA cannot deny the Commission access to information relevant to the instant proceeding based on arguments that such information is subject to some type of confidential treatment. The Commission's Resolution CEPR-MI-2016-0009, as amended, issued on August 31, 2016, establishes the procedure for any party to request confidentiality treatment for information that it deems confidential. The safeguards established by Resolution CEPR-MI-2016-0009 are designed to provide the parties with the necessary protection for confidential and proprietary information, at the same time that the Commission is able to analyze and evaluate crucial data to complete its regulatory obligations. PREPA's objections, founded on concerns over the confidential nature of the information sought by the Commission, are baseless and have no legal validity.

In failing to provide the information required by the Initial Order, PREPA is preventing the Commission from concluding this proceeding expediently and in a timely manner. PREPA has failed to comply on multiple occasions with the Commission's order to produce the LNG Market Research report. Therefore, whatever negative impacts PREPA may experience as a result of further delays in the approval of the Aguirre Site proposal are entirely of PREPA's own making.

Given PREPA's lack of compliance and the need to continue forward with this proceeding, the Commission has determined to invite all intervenors to present their position and expert opinions with regards to the reasonableness and feasibility of key inputs and assumptions used by PREPA in its economic analysis, primarily related to the price and availability of liquefied natural gas for delivery at the proposed Aguirre Offshore Gasport ("AOGP"), by answering the questions below. The purpose of these briefs is to ensure the Commission has a complete record, so that the Commission is in a position of making an informed and responsible determination in the instant proceeding.

Intervenors must file briefs to the following questions **on or before June 9, 2017**.

1. Please comment on the price structure for natural gas delivered to AOGP as assumed by PREPA (115% of the monthly Henry Hub index price, plus \$4/MMBTU).

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<sup>2</sup> Comisionado de Seguros de Puerto Rico v. John Bradley, 98 D.P.R. 21 (1969).

<sup>3</sup> Section 6.2 of the Uniform Administrative Procedure Act, 3 L.P.R.A. §2192.

- a. Do you think it is reasonable and realistic for PREPA to assume that LNG delivered to AOGP will be prices as a multiplier on an index, plus a flat adder? If so, please discuss. If not, please describe why not and what other price structure you expect LNG deliveries to AOGP might follow.
  - b. Do you think it is reasonable and realistic for PREPA to assume that LNG delivered to AOGP will be indexed to gas prices at Henry Hub? If so, please discuss. If not, please describe why not and what other fuel index you expect LNG deliveries to AOGP might be indexed to.
  - c. Do you think it is reasonable and realistic for PREPA to assume at 115% price multiplier for the indexed portion of the price of LNG delivered to AOGP? If not, please describe why not and what other price multiplier you would expect PREPA to be quoted for LNG deliveries to AOGP.
  - d. Do you think it is reasonable and realistic for PREPA to assume a value of \$4/MMBTU for the adder portion of the price of LNG delivered to AOGP? If not, please describe why not and what other adder you would expect PREPA to be quoted for LNG deliveries to AOGP.
2. Please comment on a reasonable and realistic approach to acquiring a contract for LNG deliveries to AOGP. In particular, please comment on:
- a. Do you think PREPA should follow a competitive bidding process? If so, approximately how many quotes or bids do you think PREPA should anticipate receiving?
  - b. In what timeframe, relative to the anticipated operational date of AOGP, should PREPA seek to sign a fuel delivery contract for LNG delivered to AOGP?
  - c. What duration or contract term should PREPA seek to secure such a contract for?
  - d. Please comment on a reasonable allocation of risks within such a contract. For example, what provisions should such a contract include with regards to minimum delivery quantities, fuel quality, and non-performance by either party?
  - e. Please comment on the impact of the Jones Act on the potential diversity of fuel suppliers to which PREPA may have access. Do you think PREPA should be focused on domestic suppliers, foreign suppliers, or both?
  - f. Please comment generally on the anticipated impact of PREPA's financial status on the availability of low-cost, low-risk fuel agreements.



Finally, as the Commission warned in its May 16, 2017 order, failure to produce the aforementioned LNG Market Research report could result in administrative sanctions, to include fines and the dismissal of the instant case. In light of the aforementioned and PREPA's continued noncompliance with the Commission's orders, the Commission **ORDERS** PREPA to **on or before June 7, 2017 show cause** why the Commission shall not impose administrative penalties, under Articles 6.3(mm) and 6.36 of Act 57-2014, as well as any other administrative sanction that proceeds.

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

Be it notified and published.

Ángel R. Rivera de la Cruz  
Associate Commissioner

José H. Román Morales  
Associate Commissioner  
Interim Chairman

#### CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Commission has so agreed on June 2, 2017 and on this date a copy of this Resolution and Order regarding the Case No. CEPR-AP-2017-0001 was notified by electronic mail to the following: j-morales@aepr.com, n-vazquez@aepr.com, c-aquino@aepr.com, n-ayala@eepr.com, equinones@qaclaw.com, vcandelario@qaclaw.com, gmartinez@qaclaw.com, pbarcelo@estrellallc.com, lmorera@estrellallc.com, serdar.tufekci@na.engie.com, richard.houston@na.engie.com, jperez@oipc.pr.gov, codiot@oipc.pr.gov, rstgo2@gmail.com, ladrian@gasnaturalfenosa.com, francisco.rullan@aae.pr.gov, wilma.lopez@aae.pr.gov, tonytorres2366@gmail.com, sierra@arctas.com, molinilawoffices@gmail.com, ccf@tcmrslaw.com, carlos.reyes@ecoelectrica.com, cfl@mcvpr.com, hmc@mcvpr.com, mgrpcorp@gmail.com, victorluisgonzalez@yahoo.com, epo@amgprlaw.com, acasellas@amgprlaw.com, agraitfe@agraitlawpr.com, and lfortuno@steptoe.com. I also certify that today, June 2, 2017, 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, June 2, 2017.

  
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María del Mar Cintrón Alvarado  
Clerk