

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO ENERGY COMMISSION**

**IN RE:** AGUIRRE SITE ECONOMIC  
ANALYSIS

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

**SUBJECT:** Final Resolution and Order  
Closing Proceeding on Aguirre Site  
Economic Analysis.

**FINAL RESOLUTION AND ORDER**

**I. Introduction and Background**

On February 10, 2017, the Puerto Rico Energy Commission ("Commission") commenced this proceeding to examine the Aguirre Offshore Gas Port ("AOGP"), the Puerto Rico Electric Power Authority's ("PREPA") preferred alternative for introducing natural gas to the Aguirre site.<sup>1</sup> In the Order commencing this proceeding, the Commission noted the necessity "to thoroughly review the benefits of the Aguirre Site Plan and arrive at a final determination of whether or not construction of the AOGP is commensurate with a low-cost, low-risk path to meeting PREPA's future resource needs."<sup>2</sup>

The genesis of this proceeding was the Commission's finding in the Integrated Resource Planning ("IRP") Proceeding that PREPA had failed to meet its burden of proof with respect to demonstrating that the AOGP should proceed.<sup>3</sup> Such finding was based on inconsistent information, as to cost and other factors; delays in permitting; and, the failure to use a capacity expansion model which would have tested the AOGP against optimized portfolios that could achieve the same benefits as the AOGP with a different set of resources.<sup>4</sup> Based on the concerns enumerated in its IRP Order, the Commission could not make a determination that the AOGP should proceed.

In the absence of reliable data, the Commission established instead a \$15 million spending cap on AOGP related expenditures to permit PREPA to continue permitting, engineering and planning, with the caveat that PREPA could not begin construction of AOGP unless and until a final Commission decision with respect to the AOGP had been made.<sup>5</sup> The Commission also provided PREPA with the option to increase the cap by submitting a sound

<sup>1</sup> In Re: Aguirre Site Economic Analysis, Order, Case No. CEPR-AP-2017-0001, February 10, 2017.

<sup>2</sup> *Id.* p. 4.

<sup>3</sup> In Re: Integrated Resource Plan for the Puerto Rico Electric Power Authority, Final Resolution and Order, Case No. CEPR-AP-2015-0002, p. 77, ¶ 255, September 26, 2016.

<sup>4</sup> *Id.* p. 78, ¶ 259.

<sup>5</sup> *Id.* ¶ 261.

economic analysis of the AOGP along with a comparison of alternative options.<sup>6</sup> Since PREPA failed to do so, the Commission initiated the instant proceeding with detailed directives to PREPA regarding what it was required to file.<sup>7</sup> The proceeding took place prior to the passing of Hurricanes Irma and María.

## II. The State of Emergency

On July 2, 2017, PREPA filed<sup>8</sup> in the United States District Court of Puerto Rico for protection under Title III of PROMESA.<sup>9</sup> Furthermore, in the last week of July, 2017, Excelerate Energy LP (“Excelerate”), the contractor for the AOGP project, announced that it had canceled its contracts with PREPA to construct the natural gas terminal.<sup>10</sup>

On September 17, 2017, the Governor of Puerto Rico, Hon. Ricardo Rosselló Nevares, declared a state of emergency due to the devastation of Hurricane María.<sup>11</sup> Due to the widespread damage to PREPA’s infrastructure and the loss of power throughout the Commonwealth, the Commission issued an Order staying all proceedings under its consideration, in order to allow PREPA to focus on the restoration of electric service. To this date, it is unclear how the damage to PREPA’s system by Hurricane María impacts the AOGP.

All of these recent events have put the status of the AOGP into question and require a reassessment of the facts and circumstances regarding the AOGP.

## III. Commission Ruling and Order on the AOGP

Given these significant events and their unknown impact to the AOGP, the Commission has determined that it is in the best interests of the public to close this proceeding without prejudice. Therefore, at this time, the Commission will not make a determination on whether the AOGP project should proceed since there is a need for updated information. The Commission **ORDERS** PREPA to take the actions described herein.

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<sup>6</sup> *Id.*

<sup>7</sup> In Re: Aguirre Site Economic Analysis, *supra*, p. 5.

<sup>8</sup> U.S. District Court for the District of Puerto Rico, Case No. 03283-LTS.

<sup>9</sup> Puerto Rico Oversight, Management, and Economic Stability Act, Pub. L. No. 114-187, 130 Stat. 549 (2016).

<sup>10</sup> Andrew Scurria, *Puerto Rico Gasport Project Stalls Over Utility Bankruptcy*, WALL ST. J., Aug. 3, 2017, available at: <https://www.wsj.com/articles/puerto-rico-gasport-project-stalls-over-utility-bankruptcy-1501802844>.

<sup>11</sup> Executive Order No. 2017-047, Administrative Bulletin No. OE-2017-047.

#### A. The Refiling and Consideration of the AOGP in the Next IRP Proceeding

On March 14, 2018, the Commission issued an Order that requires PREPA to file its next IRP on or around October 2018.<sup>12</sup> As the Commission noted in that Order, the Commission has the authority to authorize the filing of an updated IRP pursuant to Section 6(B)(h)(i) of Act 83, which provides that “in case of substantial change in the energy demand or group of resources [the Commission’s periodical review process] shall be carried out before the three (3) years provided herein to respond to and/or mitigate such changes.”<sup>13</sup> Therefore, if PREPA chooses to pursue the construction and operation of the AOGP project, PREPA shall include AOGP as part of its IRP filing and shall do so in compliance with the Commission’s new IRP regulations, promulgated on April 20, 2018.<sup>14</sup>

#### B. Additional Information Requirements

Within thirty (30) days of the issuance of this Order, PREPA shall file with the Commission a report on the following:

1. PREPA shall provide an accounting of the amounts expended, for each activity to date, along with an estimate of any additional amounts, if any, it projects that it will spend in relation to the \$15 million that PREPA was authorized to spend on the AOGP for permitting, engineering and planning.<sup>15</sup>
2. PREPA shall provide a memorandum on the impact of its bankruptcy filing on the ability to complete the AOGP.
3. PREPA shall provide a memorandum on the status of Excelerate’s involvement in the project, including any negotiations with Excelerate, and the plan going forward with or without Excelerate. PREPA shall also include information on any discussions or agreements with other parties who may be interested in assuming the AOGP project construction and/or operation.

For all these reasons, the Commission **CLOSES**, without prejudice, the instant proceeding. PREPA is **ORDERED** to take all actions described in this Resolution and Order.

Any party adversely affected by this Final Resolution and Order may file a motion for reconsideration before the Commission, pursuant to Section 11.01 of Regulation 8543 and the applicable provisions of Act 38-2017, as amended, known as the Uniform Administrative

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<sup>12</sup> In Re: Review of the Puerto Rico Electric Power Authority Resource Plan, Order, Case No. CEPR-AP-2018-0001, March 14, 2018.

<sup>13</sup> *Id.* at 3.

<sup>14</sup> In Re: Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority, Case No. CEPR-MI-2018-0005, Resolution and Order, April 20, 2018.

<sup>15</sup> In Re: Integrated Resource Plan for the Puerto Rico Electric Power Authority, *supra*, p. 77, ¶ 254.




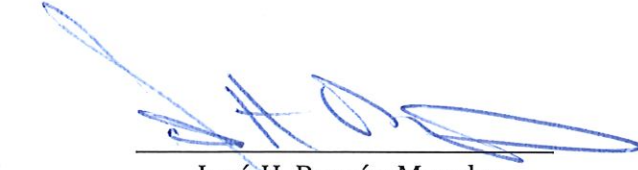
Procedure Act of the Government of Puerto Rico ("LPAU", for its Spanish acronym). Said motion must be filed within twenty (20) days from the date in which copy of this Final Resolution and Order is notified and such notice is filed in the case docket by the Commission's Clerk. Any motion for reconsideration must be filed at the Commission Clerk's Office, located at the Seaborne Building, 268 Muñoz Rivera Ave., San Juan, PR 00918. Copy of the motion as filed must be sent by email to all the parties notified of this Final Resolution and Order within the twenty (20) days established herein.

The Commission shall have fifteen (15) days from the date in which such motion is filed to consider it. If the Commission rejects it forthright or fails to consider it within said period of fifteen (15) days, the term to seek judicial review shall begin on the date in which the Commission notifies its rejection or the date in which said fifteen (15) days expire, whichever occurs first. If the Commission considers the motion, the term to seek judicial review shall commence from the date a copy of the notice of the Commission's resolution definitively resolving the motion for reconsideration is notified and copy of such notice is filed by the Commission Clerk. The Commission shall have ninety (90) days from the date the motion for reconsideration was filed to issue a final determination. If the Commission considers the motion for reconsideration but fails to take any action with respect to such motion within ninety (90) days of its filing, it shall lose jurisdiction and the term to seek judicial review shall commence upon the expiration of said ninety (90) day term, unless the Commission, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date a copy of the notice of this Final Resolution and Order was notified and copy of such notice was filed by the Commission's Clerk. Filing and notice of a petition for review before the Court of Appeals shall be made pursuant to the applicable provisions of Regulation 8543, the LPAU and the Rules of the Puerto Rico Court of Appeals.

Be it notified and published.

  
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Ángel R. Rivera De La Cruz  
Associate Commissioner

  
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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 April 26, 2018 and on this date a copy of this Final Resolution and Order was notified by electronic mail to the following: j-morales@aeepr.com, n-vazquez@aeepr.com, c-aquino@aeepr.com, n-ayala@eepr.com, pbarcelo@estrellallc.com, lmorera@estrellallc.com,





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agraitfe@agraitlawpr.com, kbolanos@cnrd.com and lfortuno@steptoe.com. I also certify  
that today, April 26, 2018, I have proceeded with the filing of this Final 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, April 26, 2018.

María del Mar Cintrón Alvarado  
Clerk