

GOVERNMENT OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION



IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY'S FISCAL PLAN

CASE NO.: CEPR-IN-2018-0001

SUBJECT: Withdrawal of March 5, 2018
Order Requiring PREPA to File February 12
Fiscal Plan.

RESOLUTION

On March 5, 2018, the Puerto Rico Energy Commission ("Commission") issued an Order ("March 5th Order") directing the Puerto Rico Electric Power Authority ("PREPA") to submit to the Commission the Fiscal Plan PREPA filed with the Financial Oversight and Management Board for Puerto Rico ("FOMB") on February 12, 2018 ("February 12 Fiscal Plan"). Through said Order, the Commission also directed PREPA to submit "a list of PREPA employees or consultants capable of explaining the Fiscal Plan's details, connecting specific individuals with specific subjects."¹

Because the FOMB certified a Fiscal Plan for PREPA on April 19, 2018, the Fiscal Plan of February 12, 2018 is no longer relevant. Accordingly, the Commission hereby withdraws the March 5th Order.

PREPA's refusal to comply with the Commission's Order in this docket led the Commission to seek enforcement through a lawsuit filed in the Puerto Rico Court of Appeals ("Enforcement Action").² That same lawsuit included an effort to enforce a separate Commission's Resolution requiring submission and approval of certain contracts (an order which PREPA also disobeyed).³

In taking this action, the Commission in no way cedes, nor could it lawfully cede, its comprehensive, exclusive powers under Act 57-2014⁴ to "oversee all types of operations, processes and mandates pertaining to the efficiency of the energy sector,"⁵ so that PREPA's

¹ March 5th Order at p. 1.

² *Comisión de Energía de Puerto Rico v. Autoridad de Energía Eléctrica de Puerto Rico*, No. SJ2018CV01081, filed in the Commonwealth Court on March 5, 2018.

³ *In re: Temporary Oversight Measures Related to the Procurement and Management of Restoration Services by PREPA*, Case No. CEPR-MI-2017-0008 (Nov. 17, 2017). That enforcement lawsuit was removed to the U.S. District Court and remains pending (see *Puerto Rico Energy Commission v. Puerto Rico Electric Power Authority*, Adv. Proc. No. 18-00024 (Doc#: 1) in 17 BK 4780-LTS).

⁴ The Puerto Rico Energy Transformation and RELIEF Act, as amended.

⁵ See Statement of Motives, Act 57-2014.

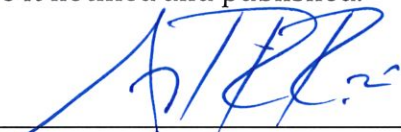
service is reliable and its rates just and reasonable. Consistent with those powers, we remind PREPA that it must comply with all provisions of Act 57-2014.



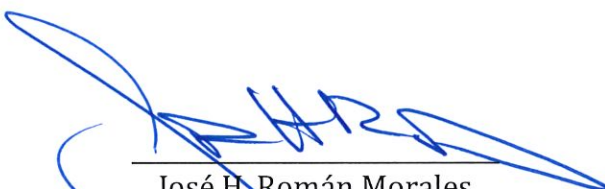
Compliance with Act 57-2014 includes obtaining the Commission's authorization before taking any action that is subject for which, pursuant to Act 57-2014, Commission authorization is required, regardless of whether such action is listed in the April 19, 2018 Fiscal Plan. This requirement to comply with Act 57-2014 does not enter into FOMB's exclusive legal domain because, as we have previously explained⁶, the FOMB's legal domain is fiscal, not substantive. Moreover, our requirement is consistent with all aspect of the April 19, 2018 Fiscal Plan because that document, by its own terms, addresses only "possible paths"⁷ for resource mix and is merely "aspiration[s]" regarding rates and reliability targets.⁸

Until, and if, there is an actual inconsistency, wherein PREPA cannot simultaneously comply with a Commission directive and an FOMB directive—and the April 19, 2018 Fiscal Plan contains no FOMB directive—PREPA must comply with all Commission orders.

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 April 26, 2018 and on this date a copy of this Resolution was notified by electronic mail to the following: c-aquino@aepr.com, n-vazquez@aepr.com and n-ayala@aepr.com. I also certify that today, April 26, 2018, 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:

⁶ See the Policy Statement issued on January 24, 2018, Case No. CEPR-MI-2018-0003.

⁷ April 19, 2018 Fiscal Plan at p. 4.

⁸ Id. at p. 3.

Autoridad de Energía Eléctrica de Puerto Rico
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For the record, I sign this in San Juan, Puerto Rico, today, April 24, 2018.

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

María del Mar Cintrón Alvarado
Clerk