

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



**IN RE:** REVIEW OF THE PUERTO RICO  
ELECTRIC POWER AUTHORITY  
INTEGRATED RESOURCE PLAN

**CASE NO.:** CEPR-AP-2018-0001

**SUBJECT:** Order pursuant to Act 83, Act 57-2014 and Regulation 9021 directing PREPA to file an updated IRP for Commission review and approval no later than October 31, 2018.

**ORDER**

1. On March 15, 2018, the Commission issued a Resolution and Order (“IRP Resolution”) through which it made three key determinations related to the implementation and enforcement of Section 6B of Act 83<sup>1</sup> and Article 6.23 of Act 57-2014.<sup>2</sup> First, it established the date from which the 3-year period for the mandatory review of an Integrated Resource Plan (“IRP”) is to be computed. Secondly, it identified the date on which, under ordinary circumstances, the scheduled 3-year mandatory review of PREPA’s Modified IRP<sup>3</sup> would commence. Lastly, it determined that hurricanes Irma and María may have caused “substantial changes in demand and group of resources”<sup>4</sup> which would warrant a review of PREPA’s Modified IRP prior to the 3-year mandatory review.

2. Accordingly, pursuant to Section 6B(h)(i) of Act 83 and Article 6.23(d) of Act 57-2014, the Commission authorized PREPA to “file and updated IPR on or about October 2018.”<sup>5</sup> The Commission determined that authorizing PREPA to file an updated IRP prior to the mandatory review established in Act 83 and Act 57-2014 was appropriate (i) given the need to assess the effects, if any, hurricanes Irma and María had on Puerto Rico’s electric market, (ii) PREPA’s public statements regarding their intention of developing an updated

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<sup>1</sup> The Puerto Rico Electric Power Authority Act, Act No. 83 of May 2, 1941, as amended.

<sup>2</sup> The Puerto Rico Energy Transformation and RELIEF Act, as amended.

<sup>3</sup> See Resolution on the Verified Motion for Reconsideration of the Puerto Rico Electric Power Authority approved on February 10, 2017, Case No. CEPR-AP-2015-0002. Pursuant to the Uniform Administrative Procedure Act of the Government of Puerto Rico, Act 38-2017, an IRP is deemed to be legally binding and enforceable once any post-administrative decision remedies have been fully exhausted. However, unless otherwise ordered by a court with competent jurisdiction, the filing of post-administrative decisions remedies does not automatically suspend the validity of the determinations made therein.

<sup>4</sup> IRP Resolution at p. 3 (citing Article 6B(h)(i) of Act 83).

<sup>5</sup> *Id.* at p. 4.

IRP ahead of schedule<sup>6</sup> and (iii) the publishing by PREPA of a “Request for Proposal (“RFP”) seeking proposal for the ‘provision of professional services for performing an [IRP].”<sup>7</sup>

3. On April 26, 2018 the Commission issued a Final Resolution and Order in Case No. CEPR-AP-2017-0001, In Re: Aguirre Site Economic Analysis (“AOGP Order”) through which it closed and dismissed, without prejudice, the pending economic evaluation of the proposed Aguirre Site.

4. The AOGP Order granted PREPA the option of determining whether to include AOGP as a resource alternative in the development of its upcoming IRP proposal, which filing the Commission authorized through the aforementioned IRP Resolution. In doing so, the economic feasibility of the Aguirre Site would be evaluated based on updated projections which take into account recent changes in policy and socio-economic assumptions.

5. On May 16, 2018 PREPA filed a Motion for Reconsideration of the AOGP Order requesting the Commission correct an apparent inconsistency between the IRP Resolution and the AOGP Order related to the filing of an updated IRP on or about October 2018.<sup>8</sup> In its Motion for Reconsideration, PREPA stated that

[a]fter several efforts and a formal request for proposals (“RFP”), PREPA recently retained the services of independent experts and consultants to assist it with the preparation of a new IRP. PREPA expects that the IRP will be completed around September 2018.<sup>9</sup>

6. Sub-section (bb) of Section 6 of Act 83 commands PREPA to “[d]evelop and maintain an [IRP] in accordance with the parameters and requirements established by the Commission as provided in [Section 6B].”<sup>10</sup> “Any amendment to the integrated resource plan shall also be filed for the Commission’s review and approval.”<sup>11</sup> Section 6B(h)(iii) provides, in part, that “[t]he Commission shall issue all the necessary rules to be followed by PREPA to devise its integrated resource plan.”<sup>12</sup>

<sup>6</sup> See February 1, 2018 PREPA Governing Board Press Release (<https://www.aeepr.com/Noticias/noticiasread.asp?r=YQVATMSJWX>).

<sup>7</sup> IRP Resolution at p. 3. *See, also*, Request for Proposal Invitation (<https://www.aeepr.com/Docs/Invitation%20letter.pdf>).

<sup>8</sup> The Commission addressed and resolved PREPA’s Motion for Reconsideration of the AOGP Order through Resolution dated May 24, 2018.

<sup>9</sup> PREPA Motion for Reconsideration at p. 3.

<sup>10</sup> 22 L.P.R.A. §196.

<sup>11</sup> Section 6B of Act 83, 22 L.P.R.A. §196c

<sup>12</sup> *Id.*



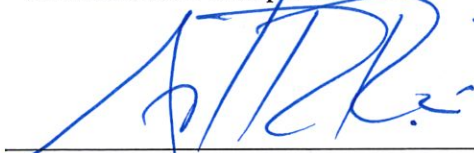
7. Similarly, sub-section (d) of Article 6.23 commands the Commission to “supervise and oversee compliance [with the approved IRP] and requires the Commission to, “[e]very three (3) years, [...] carry out another review process, and, if applicable, modify such plans.”<sup>13</sup> As an exception to the mandatory 3-year review, Section 6B(h)(1) of Act 83 authorizes for a review of an IRP prior to the 3-year mandatory review when there are “substantial change[s] in the energy demand or group of resources.”<sup>14</sup>

8. Sections 2.04 and 2.05 of Regulation 9021<sup>15</sup> set forth the requirements applicable to the development of an IRP by PREPA both under ordinary conditions—every 3-years—and advanced reviews due to substantial changes in demand or resources. In the case of advance review, Regulation 9021 authorizes PREPA to pursue the review of an IRP prior to the 3-year mandatory review for a variety of reasons. Furthermore, and independent from whether PREPA has begun or not the development of an IRP, Section 2.05(B) of Regulation 9021 authorizes the Commission to “require PREPA to file an update, amendment or review to the approved IRP.”

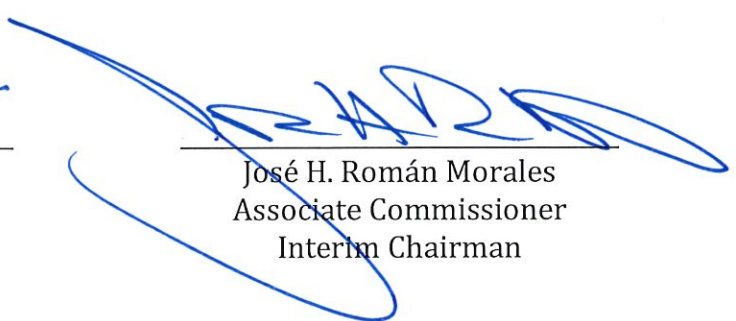
9. Given PREPA has confirmed in its filing before the Commission that it has begun the development of an updated IRP and that such updated IRP is expected to be completed around September 2018, the Commission, pursuant to Section 6B(h) of Act 83, Article 6.23 of Act 57 and Section 2.05(B) of Regulation 9021, hereby **ORDERS** PREPA to file an updated IRP for Commission review and approval **no later than October 31, 2018**.

10. In developing and filing its updated IRP, PREPA shall fully comply with the requirements established in Section 6B(h) of Act 83, Article 6.23 of Act 57-2014 and Regulation 9021.

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 May 29, 2018. I also certify that on this date a copy of this Order was notified by

<sup>13</sup> 22 L.P.R.A. §1054v.

<sup>14</sup> 22 L.P.R.A. §196c.

<sup>15</sup> Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority.



electronic mail to the following: n-vazquez@aepr.com, c-aquino@aepr.com y a n-ayala@aepr.com. I also certify that today, May 29, 2018, I have proceeded with the filing of the Order issued by the Puerto Rico Energy Commission and I have sent a true and exact copy to the following:

**Autoridad de Energía Eléctrica de Puerto Rico**

Attn.: Nitza D. Vázquez Rodríguez

Nélida Ayala Jiménez

Carlos M. Aquino Ramos

PO Box 364267

Correo General

San Juan, PR 00936-4267

For the record, I sign this in San Juan, Puerto Rico, today May 29, 2018.

María del Mar Cintrón Alvarado  
Clerk