

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

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IN RE:

INTEGRATED RESOURCE PLAN
FOR THE PUERTO RICO
ELECTRIC POWER AUTHORITY

NO. CEPR-AP-2015-0002

SUBJECT: PREPA'S COMPLIANCE
FILING FOR ITEMS DUE APRIL 2, 2018

**PREPA'S COMPLIANCE FILING FOR
ITEMS DUE APRIL 2, 2018**

TO THE HONORABLE PUERTO RICO ENERGY COMMISSION:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") and respectfully submits to the honorable Puerto Rico Energy Commission (the "Commission") PREPA's Compliance Filing for items due April 2, 2018.¹ This Compliance Filing consists of information provided in the body of this document and incorporated by reference herein.

I. BACKGROUND

1. On March 18, 2017, the "Modified IRP" established by the Commission in the instant Docket became effective,² subject to certain further steps, including: (a) the Commission's Aguirre Site Economic Analysis case involving PREPA's proposal to construct

¹ This Compliance Filing is submitted: (1) under the Commission's Final Resolution and Order issued in this Integrated Resource Plan ("IRP") case on September 23, 2016 ("IRP Final Order"); (2) as clarified and/or modified by: (a) the Commission's Resolution on the Verified Motion for Reconsideration of the Puerto Rico Electric Power Authority issued on February 10, 2017 ("IRP Rehearing Order"); (b) the Commission's clarification Resolution of April 5, 2017; (c) the Commission's Order (Initiating Proceeding on Aguirre Site Economic Analysis), initiating Case No. CEPR-AP-2017-0001, issued on February 20, 2017; (d) the Commission's Resolution and Order issued in that Aguirre site case on June 9, 2017; and (e) the Commission's Resolution (on extensions of time) issued in the instant IRP case on November 1, 2017.

The items in this Compliance Filing were due on March 31, 2018, as discussed further below, but that was a Saturday, so they are due on April 2, 2018.

² See *In re Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, No. CEPR-AP-2018-0001 (Resolution and Order March 14, 2018), p. 3.

PREPA sets aside here any legal questions of whether or how any federal law or actions under federal law may have affected the Modified IRP or its effectiveness.

the Aguirre Offshore Gasport (“AOGP”) and to conduct associated natural gas conversions of Aguirre thermal units 1 and 2 and combined cycle (“CC”) units 1 and 2 (now stayed by the Commission); (b) discussions between PREPA and the Commission regarding what new generation to build at Palo Seco (now effectively stayed by the Commission by virtue of the Aguirre site case); and (c) the Commission’s performance metrics investigation that the Commission, by regulation, essentially separated from the instant IRP case (Reg. No. 8594, § 5.01; case no. CEPR-IN-2016-0002) (also now stayed by the Commission).

2. The IRP Final Order also set forth extensive requirements with which PREPA was directed to comply, both in the short- and long-term. Some of those requirements subsequently have been clarified and/or modified in some respects by the Commission in the IRP Rehearing Order and other later orders in the IRP case and in the Aguirre site case.

3. Prior to today, PREPA has submitted IRP case Compliance Filings on December 22, 2016; December 30, 2016; March 31, 2017; June 30, 2017; July 31, 2017; and January 2, 2018.

4. There are five compliance items that are due by April 2, 2018. The five items, in brief, are as follows:

- a. An updated status report on permitting of AOGP and the associated conversions (since the status report of January 2, 2018).
- b. An updated status report on permitting (in this instance meaning permits, permit applications, permits needed, and copies of permits and permit applications) of the alternative raised by the Commission of constructing a new Aguirre CC plant that would burn light diesel oil as fuel and of

repowering of existing CC units at Aguirre (since the status report of January 2, 2018).

- c. A progress / status report including information on spending versus budget in relation to PREPA's Transmission maintenance and improvement plan (since the information submission on March 31, 2017).³
- d. A progress / status report including information on spending versus budget in relation to PREPA's Distribution maintenance and improvement plan (since the information submission on March 31, 2017).⁴
- e. An updated environmental report (covering environmental compliance litigation relating to PREPA power facilities and negotiation with the U.S. Environmental Protection Agency and the U.S. Department of Justice regarding Mercury Air and Toxics Standards non-compliance, plus status of certain retirements and limited use designations) (since the status report of January 2, 2018).⁵

II. GENERAL POINTS

5. PREPA wishes to note four general points before discussing further the five subjects addressed in this Compliance Filing. The Commission already is aware of these four general points, but PREPA believes they should be mentioned here for the record.

³ This item was due on January 2, 2018, but the Compliance Filing of that date explained that the information did not exist. Accordingly, PREPA is listing it again in this report.

⁴ This item also was due on January 2, 2018, but the Compliance Filing of that date explained that the information did not exist. Accordingly, PREPA is listing it again in this report.

⁵ This item also was due on January 2, 2018, but the Compliance Filing of that date explained that PREPA was not able to compile the item at that time. Accordingly, PREPA is listing it again in this report.

A potential sixth item, an update on any communications between PREPA and the Commission regarding what new generation to build at Palo Seco effectively has been stayed, as noted earlier.

6. First, the Commission has not yet issued a decision in the Aguirre site case, which the Commission has stayed, as noted above.

7. Second, Hurricanes Irma and Maria, the resulting devastation of Puerto Rico in general and the electric system in particular, and the restoration of electric service and public safety necessarily have been the principal focus of PREPA for several months. PREPA still is in a state of emergency. PREPA is working with federal agencies, and the Government of Puerto Rico and other Puerto Rico agencies, as well as certain other important support from the mainland, on the restoration.

8. Third, PREPA remains the subject of a case under Title III of the federal PROMESA statute.

9. Fourth, while critical restoration and recovery activities are ongoing, these activities necessarily involve not only PREPA, but other agencies and actors, including instrumentalities of both the Government of Puerto Rico and the federal government of the United States.

10. As a result, as has been discussed in more detail in many prior filings by PREPA, and as indicated above, PREPA personnel are and must be focused on restoration and public safety, including PREPA personnel who are knowledgeable on and normally would work on the items that are the subjects of this Compliance Filing. See also further discussion regarding items 3 and 4, below.

11. Because of those and other reasons, PREPA is not able to provide updated reports on certain of the five subjects in this Compliance Filing.

III. COMPLIANCE ITEMS

12. The first compliance item, in brief, is an update on the status of permitting of AOGP and the associated conversions.

- a. PREPA submitted extensive information to the Commission relating to the permitting status of AOGP in its December 30, 2016, March 31, 2017, June 30, 2017, and July 30, 2017, Compliance Filings.
- b. PREPA also provided extensive information to the Commission on this subject at various points in the Aguirre site case, including in discovery, in live testimony on June 26, 2017, and in PREPA's August 9, 2017, response to the Commission's August 2, 2017, order.
- c. In its January 2, 2018, Compliance Filing, PREPA reported that it was not able to present any new update on this subject at this time since its above-referenced reports and Aguirre site case submissions.
- d. PREPA has not yet received the final biological opinion of the federal National Marine Fisheries Service, but the Service has advised PREPA that the draft biological opinion was completed and has been submitted for internal technical review.
- e. On August 7, 2017, Comite Dialogo Ambiental requested FERC to revoke the authorization approving AOGP, but that request is in abeyance.

13. The second compliance item, in brief, is an update on the status of steps taken by PREPA, if any, regarding the alternative of constructing a new Aguirre CC plant that would burn light diesel oil as fuel and of repowering of existing CC units at Aguirre.

- a. PREPA most recent report to the Commission on this subject is in its January 2, 2018, Compliance Filing.
- b. In that filing, PREPA noted that it previously has explained that it cannot simultaneously seek inconsistent permits, and that this means it cannot seek permits for this alternative while still pursuing permits for AOGP and the associated conversions. *See also, e.g.*, PREPA's Verified Motion for Reconsideration of Provisions of the Final Resolution and Order, October 13, 2016, at Section II, in this IRP case.
- c. Accordingly, in its January 2, 2018, Compliance Filing, PREPA reported that it was not able to present any new update on this subject at this time since its above-referenced reports and Aguirre site case submissions.
- d. That remains the case. As noted earlier, the Aguirre site case has been stayed by the Commission.

14. The third compliance item, in brief, is a progress report and information on spending versus budget in relation to PREPA's Transmission maintenance and improvement plan.

- a. PREPA submitted information on its Transmission plan, to the extent it existed as such, in its March 31, 2017, Compliance filing.
- b. The advent of the Hurricanes, of course, has drastically changed the circumstances of the Puerto Rico electric system in many ways, including but not limited to impacts on the transmission system.
- c. PREPA is and must be focused on the restoration and public safety.

- d. PREPA personnel who, in theory, could be tasked with trying to perform the complex analysis needed to provide a quantitative update on this subject are involved in the restoration. They would need to perform extensive work to try to factor in the Hurricanes and the restoration and to come up with some sort of analysis about how PREPA is doing in relation to its pre-Hurricanes plan.
- e. The Commission's Rate Review order on rehearing recognized that emergency spending by its nature would be a deviation from planned spending.
- f. Moreover, the nature of both the Hurricane damage and the restoration activities is likely to alter aspects of the Transmission maintenance and improvement plan (e.g., replaced or repaired portions of lines may require different maintenance schedules).
- g. For the foregoing reasons, the information contemplated by this compliance item simply does not exist at this time.
- h. Accordingly, PREPA is not able to provide any detailed report on this subject at this time.

15. The fourth compliance item, in brief, is a progress report and information on spending versus budget in relation to PREPA's Distribution maintenance and improvement plan.

- a. PREPA submitted information on its Distribution plan, to the extent it existed as such, in its March 31, 2017, Compliance filing.

- b. For the same reasons that were discussed with respect to the third compliance item, above, PREPA is not able to provide any detailed report on this subject at this time.
16. The fifth compliance item, in brief, is the environmental report.
- a. PREPA's most recent detailed report on this subject was in its June 30, 2017, Compliance Filing, as updated by its July 30, 2017, Compliance Filing.
 - b. As of its January 2, 2018, Compliance Filing, PREPA was not able to report any new update on this subject at this time since its prior updated report.
 - c. As to the Palo Seco Depot Superfund site, the first payment under this agreement was made on August 9, 2017, in the amount of \$333,333.33. The next payment is due in August 2018.
 - d. As to the subject of negotiations with the U.S. EPA / U.S. Department of Justice regarding compliance with the U.S. EPA's Mercury and Air Toxics Standards, without waiving the confidentiality of any negotiations, negotiations have been delayed because of the Hurricanes and integrated resource plan-related issues. PREPA currently expects negotiations to get back on track over the next couple of weeks.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the Honorable Puerto Rico Energy Commission accept this Compliance Filing.

RESPECTFULLY SUBMITTED,

IN SAN JUAN, PUERTO RICO, THIS 2ND DAY OF APRIL, 2018

PUERTO RICO ELECTRIC POWER AUTHORITY



Nitza D. Vázquez Rodríguez
TSPR No. 9311
Senior Attorney
Puerto Rico Electric Power Authority
P.O. Box 363928
San Juan, Puerto Rico 00936-3928
Tel. 787-521-4499
Email: n-vazquez@aepr.com

CERTIFICATION OF FILING AND SERVICE

I hereby certify that on April 2, 2018, I have sent the above Compliance Filing to the Puerto Rico Energy Commission through its Clerk via secretaria@energia.pr.gov and mcintron@energia.pr.gov; to the office of the Commission's General Counsel via tnegron@energia.pr.gov, afigueroa@energia.pr.gov, and legal@energia.pr.gov; and to: acasellas@amgprlaw.com; agraitfe@agraitlawpr.com; agraitfe@gmail.com; agraitfe@caribe.net; ana.rodriguez@oneillborges.com; carlos.reyes@ecoelectrica.com; carlos.valdejuly@oneillborges.com; ccf@tcmrslaw.com; cfl@mcvpr.com; codiot@oipc.pr.gov; dortiz@elpuente.us; dperez@cabprlaw.com; edwin.quinones@aae.pr.gov; energiaverdepr@gmail.com; epo@amgprlaw.com; felipelozada1949@gmail.com; fermin.fontanes@oneillborges.com; fviejo@amgprlaw.com; hburgos@cabprlaw.com; icv@mcvpr.com; jose.maeso@aae.pr.gov; jperez@oipc.pr.gov; lga@elpuente.us; lionel.orama@upr.edu; lmateo@ferraiuoli.com; mgrpcorp@gmail.com; mrhernandez@fgrlaw.com; mgrpcorp@gmail.com; pnieves@fgrlaw.com; rstgo2@gmail.com; valvarados@gmail.com; victorluisgonzalez@yahoo.com.



Nitza D. Vázquez Rodríguez
TSPR No. 9311
Senior Attorney
Puerto Rico Electric Power Authority
P.O. Box 363928
San Juan, Puerto Rico 00936-3928
Tel. 787-521-4499
Email: n-vazquez@aepr.com