

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



IN RE: REQUEST FOR PROPOSALS FOR
CONVERSION OF SAN JUAN UNITS 5 AND 6
TO NATURAL GAS

CASE NO.: CEPR-AI-2018-0001

SUBJECT: PREPA Non-Compliance with
Commission Orders and Regulations.

RESOLUTION AND ORDER

I. INTRODUCTION

On September 23, 2016, the Puerto Rico Energy Commission ("Commission") approved the first Integrated Resource Plan ("IRP") for the Puerto Rico Electric Power Authority¹ ("PREPA") in accordance with the provisions of Act 57-2014² and Act 83³ ("September 23 Final Resolution and Order"). The approved IRP included an Action Plan, which consists of specific directives to PREPA. The Action Plan describes the actions PREPA should take over the five (5) years following the approval of the IRP regarding, among other things, the acquisition of generation assets.⁴

In the September 23 Final Resolution and Order, the Commission issued the following findings and directives:

1. Continued permitting, and only permitting, of Aguirre Offshore Gas Port;
2. Deferral of conversions of Aguirre steam units 1 and 2 and CC units 1 and 2 to natural gas;
3. Permitting for large dual-fuel capable combined cycle unit at Aguirre;
4. Turbine replacement at Aguirre CC units 1 and 2;
5. Permitting for three dual-fuel capable combined cycle units at Palo Seco; construction of one dual-fuel-capable combined cycle unit
6. Retirement of oil-fired steam units: Costa Sur 3 and 4, Palo Seco 1 and 2, and San Juan 7 and 8;
7. Designation of San Juan 9 and 10 as "limited use";
8. Investment in transmission and distribution projects;
9. Assessment of existing renewable energy contracts for nonoperational projects; and,
10. Pursuit of energy efficiency and demand-side management.⁵

¹ In Re: Integrated Resource Plan for Puerto Rico Electric Power Authority, Case No. CEPR-AP-2015-0002, Final Resolution and Order, September 23, 2016, notified on September 26, 2016.

² Puerto Rico Energy Transformation and RELIEF Act, as amended.

³ Act 83 of May 2, 1941, as amended, known as the Puerto Rico Electric Power Authority Act.

⁴ Final Resolution and Order, Case No. CEPR-AP-2015-0002, ¶¶ 286 – 290.

⁵ Final Resolution and Order, Case No. CEPR-AP-2015-0002, ¶¶ 252 – 279.

Nowhere in the September 23 Final Resolution and Order is there a directive with respect to the conversion of San Juan Units 5 and 6 to natural gas. Moreover, in its September 23 Final Resolution and Order, the Commission stated:

PREPA must submit to the Commission detailed information, such as ... draft RFPs ... The Commission will exercise its powers to review and guarantee that PREPA undertakes a public procurement process ... The Commission will not approve any competitive bidding process that do not conform to the objectives and directives set forth herein.⁶

PREPA has not submitted the RFP to the Commission for review nor has the unit conversion been examined with the rigor of an IRP process to ensure this is the best resource option.

On March 15, 2018, the Commission issued a Resolution and Order in Case No. CEPR-AP-2018-0001 ("IRP Resolution")⁷ through which it determined that hurricanes Irma and Maria may have caused "substantial changes in the demand and group of resources"⁸ that would warrant a review of the approved IRP prior to the 3-year mandatory review. This updated IRP filing will be the second IRP filing by PREPA and follows the previously approved IRP, which included significant findings and directives with respect to PREPA's acquisition, retirement and development of additional resources.⁹ The approved IRP is currently in full force and effect until it is superseded by a Commission Resolution and Order on the Updated IRP.

On April 24, 2018, the Commission issued Regulation 9021, "Regulation on the Integrated Resource Plan for the Puerto Rico Electric Power Authority." This regulation superseded Regulation 8594 and is the regulation PREPA is required to follow for the filing of its Updated IRP. Among the features of the new regulation is the establishment of new procedures to allow for more public participation and increased transparency in the development of the IRP.

On May 29, 2018, pursuant to the Commission's authority under Act 83, Act 57-2014 and Regulation 9021, the Commission Ordered PREPA to file an updated IRP no later than October 31, 2018.¹⁰

⁶ *Id.*, ¶ 288.

⁷ In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Resolution and Order, March 15, 2018.

⁸ *Id.* at p. 3 (citing Article 6B(h) (i) of Act 83).

⁹ Final Resolution and Order, Case No. CEPR-AP-2015-0002.

¹⁰ Order, Case No. CEPR-AP-2018-0001, May 29, 2018. See also Section 6B(h)(i) of Act 83 and Article 6.23 (d) of Act 57-2014.

II. RECENT EVENTS INVOLVING PREPA'S IRP AND RESOURCE PLANNING

The Commission has been made aware of the issuance of a Request for Proposals ("RFP") for the conversion of San Juan Units 5 and 6 to natural gas. PREPA has failed to take appropriate action to apprise the Commission of its plans or provide the Commission with the RFP, as required in the September 23 Final Resolution and Order. Nor has PREPA offered any explanation for these actions, which do not comply with the approved IRP and the approved Action Plan.

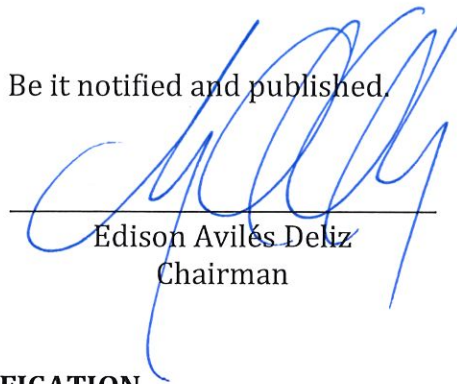
III. COMMISSION ORDER

The Commission hereby **ORDERS** the following:

1. PREPA to provide to the Commission the following documents on or before 12:00 p.m. on Thursday, August 16, 2018:
 - a. A copy of the RFP for the conversion of San Juan Units 5 and 6;
 - b. A copy of any analysis, including workpapers in native form with formulas intact, performed to determine the conversion of San Juan Units 5 and 6 is the least cost, best option and in the public interest;
 - c. All the responses to the RFP submitted to PREPA; and,
 - d. A copy of the RFP for any other resource option which PREPA may have issued.
2. Within two (2) days of receipt of additional responses to the RFP, PREPA shall provide electronically, a copy of the responses to the Commission.
3. PREPA to attend a Public Technical Conference on Friday, August 17, 2018 at 10:00 a.m. at the Commission's Hearing Room, located at Seaborne Plaza, 268 Muñoz Rivera Ave, 8th floor, San Juan, P.R. The purpose of the Technical Conference is for PREPA to present to the Commission the economic analysis and any other analysis performed in relation to PREPA's determination that the conversion of San Juan Units 5 and 6 to natural gas is the least cost, best option and in the public interest. PREPA must be prepared to answer Commission's questions and to provide any additional documents.
4. PREPA to comply with all other aspects of this Order as set forth above.
5. PREPA is required to obtain Commission approval prior to executing a contract as a result of the RFP process.

If PREPA doesn't comply with any provision of this Resolution and Order, the Commission may, at its discretion, impose penalties in accordance with Section 6.36 of Act 57-2014 or take any other appropriate administrative actions.

Be it notified and published.



Edison Aviles Deliz
Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Commission has so agreed on August 14, 2018 and on this date a copy of this Resolution and Order regarding the Case No. CEPR-AI-2018-0001 was notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com and nitza.vazquez@prepa.com. I also certify that on this date, 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:

Puerto Rico Electric Power Authority

Attn: Astrid I. Rodríguez Cruz

Jorge R. Ruíz Pabón

Nitza Vázquez Rodríguez

PO Box 363928

San Juan P.R. 00936-3928

For the record, I sign this in San Juan, Puerto Rico, today, August 14, 2018.



María del Mar Cintrón Alvarado
Clerk