



**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

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

CASE NO.: CEPR-AI-2018-0001

SUBJECT: Resolution and Order on
PREPA's Non-compliance with Orders and
Regulations

RESOLUTION AND ORDER

On October 4, 2018 the Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order requiring the Puerto Rico Electric Power Authority ("PREPA"), to submit, for the Energy Bureau's review, copies of all proposals and any memoranda detailing the evaluation and decision making process regarding the Request for Proposal ("RFP") issued by PREPA for Fuel Supply in the North and Conversion of San Juan Units 5 and 6 ("Units 5 and 6") ("Resolution and Order"). In the Resolution and Order, PREPA was ordered to submit said information within two (2) days of determining that the cost savings associated with the lower cost fuel supply justifies the power plant conversion to an alternate fuel.

On October 30, 2018 PREPA submitted before the Energy Bureau a document titled *PREPA's Compliance Filling* which included the information requested by the Energy Bureau on the Resolution and Order. As part of this Compliance Filling, PREPA requested that some of the information provided be kept confidential until the RFP process ends. On November 2, 2018 the Energy Bureau issued a Resolution and Order granting PREPA confidentiality designation for the submitted documents and ordering PREPA to file an unredacted copy of the file "New_Fortress_Proposal.pdf" on or before noon of November 5, 2018. PREPA submitted before the Energy Bureau the unredacted copy of the requested file on November 5, 2018.

The analysis of the proposals submitted as part of the RFP process, demonstrates that in addition to PREPA not having any capital expenditures and no upfront cost, there will be a considerable amount of monthly fuel savings, as well as savings in operations and maintenance, associated with a cleaner more efficient fuel. Also, the fact that there is a possibility of achieving an increase in generation capacity associated with the conversion to an alternate fuel makes the conversion of Units 5 and 6 unique.

After evaluation of the information submitted by PREPA the Energy Bureau **DETERMINES** that PREPA may continue with their RFP process, including its adjudication and commencement of the contract negotiation process for the Fuel Supply in the North and



Conversion of San Juan Units 5 and 6. Notwithstanding this determination, the Energy Bureau **ORDERS** PREPA to:

1. Include in the contract to be negotiated, language expressly contemplating the supply of diesel in case PREPA chooses to do so based on market prices;
2. Upon completion of the negotiation process, submit to the Energy Bureau the report required under Article 7 of Regulation 8815 together with a copy of the proposed contract for the Energy Bureau's review and approval.

This determination and order is contingent on: (i) the supply and utilization of the alternate fuel starting no later than the last quarter of natural year 2019, (ii) the conversion of Units 5 and 6 be included in all scenarios of the upcoming IRP filing on a realistic timeline, (iii) the operation of Units 5 and 6 will continue as submitted in proposals and agreed by the parties.

[Handwritten signature]
[Handwritten signature]
[Handwritten signature]



Be it notified and published.

Edison Avilés Deliz
Chairman

Jose J. Palou Morales
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on November 21, 2018. The Associate Commissioner Lillian Mateo Santos recused herself from the consideration and decision of this case. The Associate Commissioner Ángel R. Rivera de la Cruz issued a dissenting vote. I also certify that on this date a copy of this Resolution and Order was notified by electronic mail to the following: n-vazquez@aepr.com, astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com. I also certify that today, November 21, 2018, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:

Puerto Rico Electric Power Authority

Attn.: Nitza D. Vázquez Rodríguez

Astrid I. Rodríguez Cruz

Jorge R. Ruíz Pabón

PO Box 364267

Correo General

San Juan, PR 00936-4267

For the record, I sign this in San Juan, Puerto Rico, today November 21, 2018.

Wanda I. Cordero Morales
Interim Clerk

GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU

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

CASE NO.: CEPR-AI-2018-0001

SUBJECT: Resolution and Order on PREPA's
Non-compliance with Orders and
Regulations.

Associate Commissioner Ángel R. Rivera de la Cruz, dissenting

Today, the majority of the Puerto Rico Energy Bureau ("Energy Bureau") determined, to allow the Puerto Rico Electric Power Authority ("PREPA") adjudicate the Request for Proposal ("RFP") process for the conversion of San Juan Units 5 and 6. For the reasons expressed herein, I dissent.

* * *

Act 57-2014¹ defines the Integrated Resource Plan ("IRP") as "a plan that considers all reasonable resources to satisfy the demand for electric power services during a specific period of time, including those related to the offering of electric power, whether existing, traditional, and/or new resources, and those related to energy demand, such as energy conservation and efficiency or demand response and localized energy generation by the customer."² The goal of the IRP process is to determine the optimal resource mix that represent the least-cost option to supply the projected energy demand over the planning horizon of twenty years.

Best practices in resource planning require that all available generation resource options be analyzed in an integrated manner in order to determine the optimal resource mix to supply such demand. Evaluating a single resource, as PREPA has done with the conversion of San Juan Units 5 and 6, detached from an integrated planning analysis goes against these best regulatory and resource planning practices and may result in a more expensive system over the planning horizon.

It is important to note that the conversion of San Juan Units 5 and 6 was not considered as part of the analysis and authorization process of the IRP approved by the Energy Bureau on September 23, 2016.³ Now, as we previously stated, regarding the

¹ The Puerto Rico Energy Transformation and RELIEF Act, as amended.

² Act 57-2014, Section 1.3(ee).

³ The Approved IRP became legally binding and enforceable on March 13, 2017. See Resolution and Order, Case No. CEPR-AP-2018-0001, March 14, 2018, pp. 1 – 2. The Approved IRP has two components: (i) an Action Plan, which consists of all approved actions that PREPA might take during the first five years of the IRP planning

conversion of San Juan Units 5 and 6, PREPA's decision to move forward with the project relies solely on the basis of the expected fuel cost differential between diesel and natural gas during the first five years after the conversion.⁴ This analysis doesn't take into consideration nor compare the economics of the conversion to other available resources such as Energy Efficiency, Demand Response or renewable assets. In addition, the conversion analysis lacks the rigorous process associated with integrated planning, which includes determining the optimal online and retirement date of each generation asset.

To that effect, preliminary results of the PREPA Updated IRP show that, under certain scenarios, San Juan Unit 6 should be economically retired as early as 2024, with San Juan Unit 5 being economically retired as early as 2026.⁵ This is an indication that, although the fuel price differential for these units plays a role in the analysis, there are other factors that influence the economics of San Juan Units 5 and 6.

Moreover, it is important to point out that the proposed conversion has an initial timeframe of five years, with a potential lifespan of twenty years.⁶ Based on these scenarios, there is the possibility that San Juan Unit 6 optimal retirement date will be within the initial contract term of five years, making it impossible to retire it at the optimal date. This, by definition, does not represent the least-cost option to supply energy demand. In addition, under these scenarios, the optimal retirement date of both San Juan units will be within the twenty-year contract lifespan. Therefore, there could be a potential conflict between the contract length (initial and its extensions), and the optimal retirement date for these units.

To that effect, establishing the conversion of San Juan Units 5 and 6 as a constrain to the IRP model, as directed by the October 31, 2018 Resolution and Order and confirm by today's Resolution and Order, will force the IRP model to select these options as part of the resource mix, even when it is not economical to do so. The result under these conditions will be a resource mix that is not optimal nor least-cost. Moreover, making the conversion of San Juan Units 5 and 6 a constraint instead of an option for the IRP model is highly unusual as a

horizon; and (ii) Resource Planning Information, which consist of projected demand, evaluation of conservation resources, evaluation of the transmission capacity and reliability, evaluation of existing power plants and evaluation of environmental impacts, among others. The Resource Planning Information contained in the Approved IRP correlates to the information included in PREPA's Updated Fuel IRP of April 23, 2016. See in general, Final Resolution and Order on the First Integrated Resource Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2015-0001, September 23, 2016, ¶¶ 285 – 305.

⁴ See Resolution and Order, Case No. CEPR-AI-2018-0001, October 4, 2018, Commissioner Rivera de la Cruz dissenting, p. 4.

⁵ See PREPA IRP 2018 Preliminary results of the Long Term Capacity Expansion Plan, October 31, 2018, p. 24. On Scenario 2 Strategy 2, Under Base Load, the retirement of San Juan 6 occurs in 2025 and San Juan 5 in 2033, *id.*, p. 13. On Scenario 4 Strategy 3, Under Base Load, the retirement of San Juan 6 occurs in 2024 and San Juan 5 in 2033, *id.*, p. 13

⁶ See Request for Proposals for Fuel Supply in the North and Conversion of San Juan Units 5 and 6, PREPA RFP 81412, July 30, 2018, Section 1.2, pp. 3 – 4. "This contract term will be for a base period of Five (5) years with three (3) separate options of five (5) years extensions at PREPA's sole discretion."

resource planning action. With today's determination, the Energy Bureau manually selected a generation resource instead of allowing the Capacity Expansion Model to determine the optimal resource mix given all the available options. The Energy Bureau censured PREPA for such actions during the last IRP approval process.⁷

Finally, as I stated before, the proposed conversion of San Juan Units 5 and 6 is an implicit modification of the Approved IRP.⁸ Neither Act 57-2014 or in Act 83⁹ granted such powers to the Energy Bureau, either explicit or implicit. Although Article 6.3(pp) of Act 57-2014 states that the Energy Bureau "shall have, in addition to the powers specified in this Act, all those additional, implicit and incidental powers that are pertinent and necessary to enforce and carry out, perform, and exercise all the aforementioned powers and to attain the purposes of this Act", such implicit and incidental powers are limited by the applicable statutes and the respective legislative intention.

Regarding integrated resource planning, Subsections (h)(i) and (h)(iii) of Section 6B of Act 83 establish that every IRP shall be approved by the Energy Bureau and that such approved IRP cannot be eliminated or modified by any PREPA Board. Moreover, Subsection (h)(i) of Section 6B of Act 83 establishes that any amendment to the IRP shall be filed for Energy Bureau's review and approval. Subsection (h)(i) also states that the IRP "shall be revised every three (3) years to show changes in the energy market conditions, the environmental regulations, fuel prices, capital costs, and other factors; **provided, that in the case of a substantial change in the energy demand or group of resources, such review process shall be carried out before the three (3) years provided herein to respond to and/or mitigate such changes.**" Therefore, the Energy Bureau has the power to modify an approved IRP, but such modification must be done following the established IRP approval procedures.

I reiterate that the RFP process for the proposed conversion of San Juan Units 5 and 6 doesn't comply with the public policy on energy regarding integrated resource planning, which, as expressed above, has the goal of determining the optimal resource mix and least-cost option to supply the projected energy demand over the planning horizon of twenty years.¹⁰ As stated before, PREPA's fragmented approach to resource analysis and acquisition is what the public policy of integrated resource planning seeks to avoid.¹¹ Hence, the RFP process for the conversion of San Juan Units 5 and 6 should be stayed until the conclusion of

⁷ See in general Final Resolution and Order on the First Integrated Resource Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2015-0001, September 23, 2016, ¶ 34, 93 – 99.

⁸ See Resolution and Order, Case No. CEPR-AI-2018-0001, October 4, 2018, Commissioner Rivera de la Cruz dissenting, p. 4.

⁹ Act 83 of May 2, 1941, known as The Puerto Rico Electric Power Authority Act, as amended.

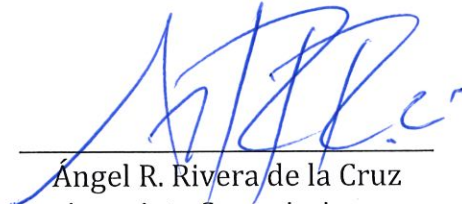
¹⁰ See Resolution and Order, Case No. CEPR-AI-2018-0001, October 4, 2018, Commissioner Rivera de la Cruz dissenting, pp. 3 – 5.

¹¹ *Id.*, p. 4.



the IRP analysis and approval process. Moreover, such analysis should be performed with the conversion of San Juan Units 5 and 6 as an option to the model, not a constraint. Only then, we will have assurance that the conversion of these units is part of the least-cost portfolio that will supply Puerto Rico energy needs in the long term.

Therefore, I dissent.



Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on November 21, 2018.