



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

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

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

**SUBJECT:** Resolution on the Puerto Rico  
Economic Competitiveness and  
Sustainability Institute's Motion Requesting  
Order

**RESOLUTION**

On September 26, 2018, the Puerto Rico Electric Power Authority ("PREPA") filed a motion titled *PREPA's (1) Compliance with the Energy Bureau's September 5<sup>th</sup> and 18<sup>th</sup> Orders and (2) Informative Motion Regarding IRP Timeline* ("Compliance Filing") before the Puerto Rico Energy Bureau ("Energy Bureau").<sup>1</sup> Upon review of the Compliance Filing, on September 28, 2018, the Energy Bureau issued a Resolution and Order determining that the Compliance Filing was complete and ordered PREPA to submit for its consideration a final timeline for the IRP filing ("September 28 Order").<sup>2</sup>

On October 5, 2018, the Puerto Rico Economic Competitiveness and Sustainability Institute ("ICSE", for its Spanish acronym) filed with the Puerto Rico Energy Bureau ("Energy Bureau") a motion titled *Motion Commenting PREPA's Informative Motion Regarding the IRP Timeline* ("ICSE's Motion"). Through its Motion, ICSE provided comments to the Compliance Filing. ICSE also expressed concerns that, by postponing the compliance with the Energy Bureau orders concerning the IRP, PREPA might make decisions and/or enter into contracts and other actions which might be irreversible. According to ICSE, "Those contracts and actions might in fact severely limit the effectiveness of the IRP, and much more limit the capacity of the Energy Bureau to perform its responsibilities."<sup>3</sup> Finally, ICSE requested that, if the Energy Bureau, in the exercise of its discretion, grants PREPA additional time to file the IRP does so in such a manner that it does not allow PREPA to bypass prior determinations or include options that are arbitrary or without base.<sup>4</sup>

On October 15, 2018, in compliance with the September 28 Order, PREPA filed a motion titled *PREPA's Compliance with the Energy Bureau's September 28 Order*, which

<sup>1</sup> See *PREPA's (1) Compliance with the Energy Bureau's September 5<sup>th</sup> and 18<sup>th</sup> Orders and (2) Informative Motion Regarding IRP Timeline*, September 26, 2018, CEPR-AP-2018-0001.

<sup>2</sup> See Resolution and Order, September 28, 2018, Case No. CEPR-AP-2018-0001.

<sup>3</sup> See ICSE's Motion, p. 1, ¶ 4

<sup>4</sup> *Id.*, p. 1

included a new timeline proposing January 21, 2019 as the new IRP filing date ("October 15 Compliance Filing").

On October 30, 2018, the Energy Bureau issued an Order<sup>5</sup> ("October 30 Order"), instructing PREPA to state its position regarding ICSE's Motion. In compliance with the October 30 Order, on November 21, 2018, PREPA filed a document titled *PREPA's Informative Motion Responding to ICSE's Motion*, ("Informative Motion"). In the Informative Motion, PREPA certified that, it notified a copy of the same to ICSE's counsel via email.<sup>6</sup> In the Informative Motion, PREPA alleged that ICSE's Motion is based on numerous factual and conceptual errors including confusing the inclusion of a project (*e.g.*, the Aguirre Offshore Gas Port) as a sensitivity in the IRP analysis with proposing a project. PREPA also argued that ICSE is mistaken when it treats the analysis conducted at the current stage of the IRP development as a proposal when PREPA has neither developed nor proposed an Action Plan.<sup>7</sup>

On November 6, 2018, after evaluating the new IRP filing timeline submitted by PREPA on October 15, 2018, the Energy Bureau determined that PREPA had complied with the September 28 Order and ordered PREPA to submit the IRP no later than January 21, 2019, as PREPA proposed in the October 15 Compliance Filing.<sup>8</sup>

On November 30, 2018, ICSE filed a document titled *Motion Requesting Action by the Puerto Rico Energy Bureau Concerning PREPA's Non-Compliance with PREB Orders*, ("November 30 Motion"). Through the November 30 Motion, ICSE requested the Energy Bureau to order PREPA to comply with the October 30 Order. In light of the foregoing, on December 6, 2018, the Energy Bureau ordered PREPA to file with the Energy Bureau proof of the notification sent to ICSE.<sup>9</sup>

On December 10, 2018, PREPA filed a motion titled *Motion for Compliance with Order* ("December 10 Motion") in which PREPA made the following general statement: "PREPA is enclosing evidence of the electronic notification of the Motion sent to attorney Fernando E.

<sup>5</sup> See Order, October 30, 2018, Case No. CEPR-AP-2018-0001.

<sup>6</sup> See Informative Motion, p. 5.

<sup>7</sup> *Id.*, p. 3-5.

<sup>8</sup> See Resolution and Order, November 6, 2018, Case No. CEPR-AP-2018-0001.

<sup>9</sup> In its Order, the Energy Bureau noted that that ICSE filed the November 30 Motion under two different dockets (*i.e.*, Case No. CEPR-AP-2018-0001 and Case No. CEPR-AP-2018-0002) and that pursuant to Section 2.02(a) of Regulation 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*, each motion filed before the Energy Bureau must have only one heading. In light of the foregoing, the Energy Bureau ordered ICSE to, prospectively, file separate motions for each intended docket and warned ICSE that failure to file separate motions under each docket may result in the immediate dismissal of the motion. See Resolution and Order, October 30, 2018, CEPR-AP-2018-0001.



Agrait, ICSE's legal counsel."<sup>10</sup> Specifically, as part of its December 10 Motion, PREPA included two documents: (i) a hard copy of two emails and (ii) a read receipt message<sup>11</sup>. Upon review of said documents, we conclude that: (i) on November 30, 2018 attorney Fernando E. Agrait notified to Nitza D. Vázquez Rodríguez, PREPA's legal counsel the November 30 Motion, in accordance with his notification certification<sup>12</sup>; and (ii) on, December 3, 2018, three days after ICSE notified PREPA the November 30 Motion, Nitza D. Vázquez Rodríguez notified Fernando E. Agrait a copy of the Informative Motion, as a reply to the foregoing notification email.<sup>13</sup>

Based on the foregoing, PREPA failed to comply with the provisions of Section 2.02(E)(1) of Regulation 8543<sup>14</sup> and the October 30 Order. In other words, PREPA's

<sup>10</sup> See December 10 Motion, p. 1.

<sup>11</sup> This document confirms that Fernando E. Agrait opened on December 3, 2018 at 12:14:33 pm the email sent by Nitza D. Vázquez Rodríguez on December 3, 2018 at 11:16 am.

<sup>12</sup> The first sentence of the mentioned certification seems to have been inadvertently included in the November 30 Motion as it reads: "I also certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on November 29, 2018." See, November 30 Motion, p. 2.

<sup>13</sup> The reply to Agrait's November 30, 2018 email states:

"Greetings attorney Agrait! I am enclosing a copy of the motions filed with the Energy Bureau. It seems that you did not received the electronic mail with your copy. I would appreciate that you confirm the receipt of this email."

See Email from Nitza D. Vázquez Rodríguez to Fernando E. Agrait dated December 3, 2018 11:16 am, filed together with the December 10 Motion.

<sup>14</sup> Regarding the general requirements of written appearances, including their notification, Section 2.02 of Regulation 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings*, requires:

#### Section 2.02.- General Requirements of Written Appearances

Every pleading, motion or document presented before the Energy Commission must comply with the following requirements:

....

(E) With the exception of claims that result in the initiation of an adjudicative proceeding before the Commission, every document shall contain a certification from the appearing party or the appearing party's lawyer, in the case of being represented, **indicating that they have served a copy to every other party to the case of said document**, and the vehicle used to effect said notice.

1) Notice **to all parties shall be effected the same day the document is presented before the Commission.**


2) When a lawyer represents a party, notice shall be served to the lawyer, unless the




notification was not effected the same day the document was presented before the Energy Bureau. Prospectively, PREPA shall ensure compliance with the provisions of Regulation 8543 as noncompliance with the same may result in the immediate dismissal of the document. Noncompliance with the notification requirement may result in the dismissal of the document or other administrative sanctions, at the Energy Bureau's discretion.

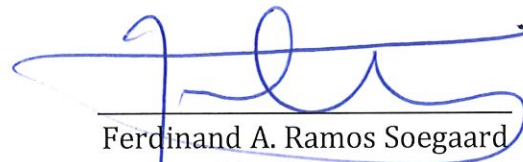
Upon review of the documents presented by ICSE and PREPA, the Energy Bureau **DETERMINES** that the procedure established in the instant case, as well as the Energy Bureau's current rules and regulations adequately protect the public interest. It is also **DETERMINED** that the approved IRP timeline, under which PREPA is required to file the IRP no later than January 21, 2019, is prudent and reasonable. Therefore, ICSE's Motion is **DENIED**.


Be it notified and published.

  
Edison Avilés Deliz  
Chairman

  
Ángel R. Rivera de la Cruz  
Associate Commissioner

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
José J. Palou Morales  
Associate Commissioner

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Commission orders that notice be sent directly to the party.

- 3) Notice shall be sent via email to the address on record. In the event any party, or lawyer, does not have an email account, notice shall be personally delivered, faxed or mailed to the number or address, as may be the case, appearing on record. Notice shall be considered served upon being sent (via email or fax) or upon being mailed.

....

See Section 2.02 of Regulation 8543. (Emphasis added.)



## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 21, 2018. I also certify that on this date a copy of this Resolution regarding the Case No. CEPR-AP-2018-0001 was notified by electronic mail to the following: n-vazquez@aeep.com, astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com and agraitfe@agraitlawpr.com. I certify that today, December 21, 2018, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:

**Puerto Rico Electric Power Authority**

Nitza D. Vázquez Rodríguez, Esq.  
PO Box 364267  
General Post Office  
San Juan, PR 00936-4267

**Puerto Rico Economic Competitiveness  
and Sustainability Institute**

Fernando E. Agrait, Esq.  
701 Ponce de León Ave.  
Edif. Centro de Seguros, Suite 414  
San Juan, Puerto Rico 00907

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



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María del Mar Cintrón Alvarado  
Clerk