

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 and Orden on the
Puerto Rico Economic Competitiveness and
Sustainability Institute's Motion Requesting
Order

RESOLUTION AND ORDER

On October 30, 2018, the Puerto Rico Energy Bureau ("Energy Bureau") issued an Order ("October 30 Order"), instructing the Puerto Rico Electric Power Authority's ("PREPA") to state its position regarding a Motion filed by the Puerto Rico Economic Competitiveness and Sustainability Institute ("ICSE-PR", by its Spanish acronym) on October 5, 2018, in the instant case. 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").¹ In its Informative Motion, PREPA certified that, as a courtesy, it emailed a copy of the Informative Motion to ICSE-PR's counsel.²

On November 30, 2018, ICSE-PR filed a document titled *Motion Requesting Action by the Puerto Rico Energy Bureau Concerning PREPA's Non Compliance with PREB Orders*, ("November 30 Motion").³ Through the November 30 Motion, ICSE-PR requested the Energy Bureau to order PREPA to comply with the October 30 Order.

Based on ICSE-PR's argument, PREPA is **ORDERED** to, within five (5) days from the notification date of this Order, file with the Energy Bureau proof of the notification sent to ICSE-PR.

Finally, it is important to note that ICSE-PR filed the November 30 Motion under two different dockets, Case No. CEPR-AP-2018-0001 and Case No. CEPR-AP-2018-0002. Pursuant to Section 2.02(a) of Regulation 8543,⁴ each motion filed before the Energy Bureau

¹ See Attachment 1.

² Informative Motion, p. 6.


³ ICSE filed its motion under two dockets, case CEPR-AP-2018-0001 and case CEPR-AP-2018-0002. Pursuant to Section 2.02(a) of the Energy Bureau's *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*, Regulation No. 8543, each motion filed before the Energy Bureau must have only one heading.

⁴ *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*.




must have only one heading. Therefore, ICSE-PR is **ORDERED** to, prospectively, file separate motions for each intended docket. Failure to file separate motions under each docket may result in the immediate dismissal of the motion.


Be it notified and published.



Edison Aviles Deliz
Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



José J. Palou Morales
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 6, 2018. The Associate Commissioner Lillian Mateo Santos did not intervene. I also certify that on this date a copy of this Resolution and Order was notified by electronic mail to the following: agraitfe@agraitlawpr.com, n-vazquez@aeepr.com, astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com. I also certify that today, December 6, 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

**Puerto Rico Economic Competitiveness
and Sustainability Institute**
Attn. Fernando E. Agrait
701 Ave. Ponce De León
Oficina 414
San Juan, P.R. 00907

For the record, I sign this in San Juan, Puerto Rico, today December 6, 2018.



María del Mar Cintrón Alvarado
Clerk

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

SECRETARIA
COMISION DE ENERGIA DE
PUERTO RICO

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

NO. CEPR-AP-2018-0001

SUBJECT: PREPA'S Informative
Motion Responding to ICSE's Motion

PREPA'S INFORMATIVE MOTION RESPONDING TO ICSE'S MOTION

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") and respectfully submits to the honorable Puerto Rico Energy Bureau (the "Energy Bureau")¹, in compliance with the Energy Bureau's Order of October 30, 2018, PREPA's response to the Puerto Rico Economic Competitiveness and Sustainability Institute's ("ICSE") Motion of October 5, 2018. The Energy Bureau should take no action based on the ICSE October 5th Motion because the motion is based on factual and conceptual errors. In support of its response, PREPA states as follows:

1. This response timely complies with the Energy Bureau's October 30th Order.
2. In brief, the ICSE's October 5th Motion was a reaction to: (a) PREPA's September 26, 2018, Informative Motion regarding the timeline for the integrated resource plan ("IRP") filing; and (b) the Energy Bureau's September 28, Resolution and Order directing PREPA to provide by October 13, 2018, a proposed timeline for the IRP. The ICSE expressed concern about whether, if the due date for the IRP were to be

¹ All references herein to the Energy Bureau include the former Puerto Rico Energy Commission, when applicable.

extended, PREPA make might make decisions and/or enter into contracts or other actions that might limit the effectiveness of the IRP and limit the role of the Bureau in relation to the IRP. ICSE also asserted concern that PREPA in the IRP is considering "options which, we understand, were already rejected by the Energy Bureau (from PREC), like the AGOP [sic] and others".

3. The ICSE's Motion rests on numerous factual and conceptual errors.

- a. First, the ICSE's Motion confuses including a project, such as the Aguirre Offshore Gasport ("AOGP") project,² as a *sensitivity* in the IRP analysis with *proposing* that project. They are not the same thing at all. The IRP, at its current stage, is an analysis, not a proposal. AOGP is just one of numerous sensitivities being studied in some scenarios of the IRP.
- b. Second, there has been an extraordinarily transparent process to define what will and will not be studied in the IRP analysis. That process has included the Energy Bureau's Reg. No. 9021, the extensive IRP stakeholder processes conducted by PREPA and its IRP consultant Siemens PTI, and the three IRP technical conferences held by the Energy Bureau and the resulting Bureau orders.
- c. Third, the Energy Bureau, in its Regulation and its processes and orders in this docket, has never objected to, much less barred, the inclusion of AOGP as a sensitivity in the IRP analysis. Rather, the

² PREPA assumes that, by "AGOP", the ICSE Motion meant AOGP.

Bureau, through its orders, effectively has approved and required the inclusion of AOGP as a sensitivity.

- d. Fourth, the Energy Bureau never "rejected" the AOGP project. In the 2015 IRP case, the Energy Bureau did not make a final decision on the AOGP project and instead opened a new docket, the Aguirre Site Economic Analysis case, to consider further what to approve for the Aguirre site. In the 2015 Rate Review, the Energy Bureau did not make a final decision on the AOGP project but did authorize up to \$15 million incremental dollars to be spent on the AOGP project and certain related items through certain stages. In the Aguirre Site Economic Analysis case, the Bureau ultimately dismissed the case "without prejudice".
- e. Fifth, the ICSE's Motion, apart from AOGP, does not identify any other "option" that PREPA is "considering" that the Energy Bureau previously allegedly rejected.
- f. Sixth, even if the Energy Bureau had rejected the AOGP or some other "option", that would not prohibit AOGP or the other option being considered as a sensitivity in the current IRP analysis.
- g. Finally, PREPA has not yet developed, much less proposed and filed, an Action Plan that includes any project, much less the AOGP project or any other supposedly "rejected" project in particular

4. With respect to contracts in general, PREPA notes that it is subject to multiple layers of review and approval for significant contracts. Those layers of

regulation include, within the particular jurisdictions and scopes defined by the applicable statutes, regulations, and orders: (a) the Governor's November 8, 2017, Executive Order No. OE-2017-066 that delegated certain receivership powers to the Fiscal Agency and Financial Advisory Authority ("AAFAF") regarding PREPA contracting and contract review and approval and that created the Office for Contract and Procurement Compliance ("OCPC"), both effective immediately; (b) the Financial Oversight and Management Board's November 6, 2017, policy on review of contracts; (c) the Energy Bureau's authority relating to approval of new power purchase agreements and of certain other kinds of contracts under Act 57-2014; (d) the authority of the Public Private Partnership Authority over partnership contracts under Acts 83-1951, 57-2014, 29-2009, and 120-2018; (e) regulations of the Federal Emergency Management Administration ("FEMA") regarding use of FEMA funds; and (f) the authority of the court in the PROMESA "Title III" case.

5. Therefore, for all of the above reasons, the ICSE's Motion lacks merit and the Energy Bureau should take no action based on the Motion.

6. Moreover, the ICSE's Motion also is moot, in any event, subject to one possible new development. On October 15, 2018, PREPA submitted to its compliance filing with a new timeline including an IRP filing date of January 21, 2019. On November 6, 2018, the Energy Bureau issued a Resolution and Order finding PREPA's compliance filing to be complete and changing the due date for the IRP filing to January 21, 2019. Thus, the extension of the IRP timeline about which ICSE was concerned already has occurred.

7. However, even if the ICSE's Motion technically were to be not moot, that would not change that the Motion lacks merit.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the honorable Puerto Rico Energy Bureau take no action based on the ICSE Motion.

RESPECTFULLY SUBMITTED,

IN SAN JUAN, PUERTO RICO, THIS 20TH DAY OF NOVEMBER, 2018

PUERTO RICO ELECTRIC POWER AUTHORITY



Nitza D. Vázquez Rodríguez

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CERTIFICATION OF FILING AND SERVICE

I hereby certify that on November 20, 2018, I have filed the above Informative Motion with the Puerto Rico Energy Bureau, and on that same date was sent via email to the Clerk via email to secretaria@energia.pr.gov and mcintron@energia.pr.gov, and to the office of the Energy Bureau's internal legal counsel via email to legal@energia.pr.gov and sugarte@energia.pr.gov. The Informative Motion, as a courtesy, also has been emailed to the ICSE's counsel at agraitefe@agraitlawpr.com, although the ICSE is not yet an intervenor in this docket.



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