

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



**IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW**

CASE NO.: CEPR-AP-2015-0001; NEPR-AP-
2018-0003

SUBJECT: Resolution and Order on the
Puerto Rico Electric Power Authority's
Permanent Rate reconciliation process.

RESOLUTION AND ORDER

On April 23, 2019, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") held a technical and compliance hearing ("April 23 Technical Hearing") with the Puerto Rico Electric Power Authority ("PREPA") regarding the implementation of PREPA's Permanent Rate. During the hearing, PREPA indicated that it could submit all documents related to the reconciliation of the Permanent Rate and the Temporary Rate on or before May 29, 2019.¹ For this reason, the Energy Bureau ordered PREPA to, on or before May 29, 2019, file with the Energy Bureau the proposed reconciliation factors for the costs associated with the Contribution in Lieu of Taxes ("CILT"), subsidies and the Temporary Rate for the period of July 1, 2016 to April 30, 2019; the costs associated with fuel and purchased power during the emergency period following Hurricanes Irma and María; and the costs associated with fuel and purchased power for the months of March and April 2019 ("Compliance Filing").²

On May 9, 2019, the Energy Bureau issued a written Resolution and Order ("May 9 Resolution and Order") to reiterate and formalize the verbal order given to PREPA during the April 23 Technical Hearing. In the May 9 Resolution and Order, the Energy Bureau ordered PREPA to propose separate factors for each reconciliation and to provide all working papers in native form with formulae intact.

On May 29, 2019, instead of filing the documents it stated will be available on that date, PREPA filed a document titled *PREPA's Motion for an Extension of Time and for an Expedited Technical Conference Call* ("PREPA's Motion"). On its Motion, PREPA requested to extend the May 29, 2019 deadline to at least June 5, 2019.³ In support to its request, PREPA

¹ April 23 Technical Hearing, at 1:15:48 – 1:19:55.

² *Id.*

³ PREPA's Motion, p. 1.

argued that some concerns arouse during the evaluation and analysis of the Compliance Filing “which result in the need to seek a short extension of time for the compliance filing”.⁴

According to PREPA, it “has reached the conclusion that the methodology that previously has been contemplated and discussed by PREPA and the Energy Bureau for the calculation of the [provisional rates] reconciliation may unintentionally lead to PREPA being required to credit a large aggregate amount to customers’ bills when the actual fact is that PREPA experienced a significant revenue shortfall during the applicable period.”⁵ Moreover, PREPA states that it “has identified additional complications due to the Energy Bureau’s recent directives regarding the rates related to public lighting, resulting in the shifting of additional amounts to be recovered to other customers.”⁶

On the other hand, PREPA requested an expedited technical conference call. PREPA stated that such call is necessary since its “compliance filing will be extensive and highly detailed.”⁷ PREPA also stated that the “compliance filing will involve new concerns and points about the provisional rates reconciliation and the effects of the public lighting changes on certain reconciliations.”⁸ For that reason, according to PREPA, a technical conference call would allow PREPA and the Energy Bureau to promptly and efficiently discuss these subjects and identify possible approaches to resolve them.⁹

It is important to point out that, as we stated before, PREPA indicated the May 29, 2019 deadline was suitable. In fact, it was PREPA who suggested that date upon inquiry by the Energy Bureau during the April 23 Technical Hearing. That is the reason why PREPA’s time extension request is utterly surprising. Moreover, the practice of waiting until the day of the deadline to request a time extension is disruptive to Energy Bureau’s procedures and is not aligned with the public interest.

PREPA’s last-minute motion reduces the number of days the Energy Bureau will have to analyze the Compliance Filing which, according to PREPA, will be extensive and highly detailed. This might result in the Energy Bureau not having enough time to issue a Resolution in order for PREPA to implement the required reconciliation on July 1, 2019, as scheduled. For these reasons, and due to the fact that PREPA did not file on time the documents pertaining the required reconciliation, as ordered, the Energy Bureau **IMPOSES**

⁴ *Id.*, p. 3.

⁵ *Id.*

⁶ *Id.*, pp. 3 – 4.

⁷ *Id.*, p. 4.

⁸ *Id.*

⁹ *Id.*

an administrative fine in the amount of five thousand dollars (\$5,000.00), in accordance with Article 6.36 of Act 57-2014¹⁰. The Energy Bureau **ORDERS** PREPA to, within fifteen (15) days from the date of the notification of this Resolution and Order, pay the aforementioned fine with the Energy Bureau's Clerk.

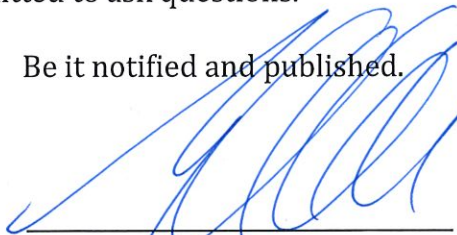
Regarding the time extension request, the Energy Bureau **ORDERS** PREPA to present the Compliance Filing **on or before 12:00 p.m., June 5, 2019**. If PREPA fails to present the Compliance Filing on or before the deadline established herein, the Energy Bureau will impose PREPA an administrative fine of twenty-five thousand dollars (\$25,000.00) per day until the Compliance Filing is received. For the purpose of the aforementioned fine, the term "day" is defined as the time period between 12:01 p.m. of any natural day and 12:00 p.m. of the following natural day, or any part thereof. The first day will start at 12:01 p.m. on June 5, 2019.

PREPA is warned that, if due to the extension of the May 29, 2019 deadline, the Energy Bureau cannot issue a timely order approving the required reconciliation, such that it can be implemented on July 1, 2019, as scheduled, PREPA might be exposed to additional fines and administrative sanctions.


Finally, the Energy Bureau **ORDERS** PREPA to attend a Technical Conference Call to be held **on June 10, 2019 at 10:00 a.m.** to discuss and explain in detail the Compliance Filing. PREPA must be fully prepared to answer all Energy Bureau's questions regarding the Compliance Filing.

Any person interested in joining the Technical Conference Call can request, on or before June 7, 2019, the dial-in information via email at legal@energia.pr.gov. All interested persons are welcomed to listen to the conference; however, the participants are not permitted to ask questions.

Be it notified and published.



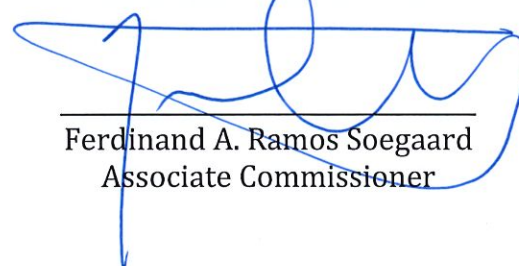
Edison Avilés Deliz
Chair



Lillian Mateo Santos
Associate Commissioner



Angel R. Rivera de la Cruz
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Ferdinand A. Ramos Soegaard
Associate Commissioner

¹⁰ The Puerto Rico Energy Transformation and RELIEF Act, as amended.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 31, 2019.

Chairman Avilés Deliz dissented with regard to the imposition of the administrative fine.

I also certify that on this date a copy of this Resolution and Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@prepa.com, n-ayala@prepa.com, c-aquino@prepa.com, j-morales@prepa.com, hriviera@oipc.pr.gov, maribel.cruz@acueductospr.com, pga@caribe.net, jfeliciano@constructorespr.net, nydinmarie.watlington@cemex.com, eenergypr@gmail.com, aconer.pr@gmail.com, glenn.rippie@r3law.com, john.ratnaswamy@r3law.com, michael.guerra@r3law.com, pnieves@vnblegal.com, abogados@fuerteslaw.com, jorgehernandez@escopr.net, ecandelaria@camarapr.net, agraitfe@agraitlawpr.com, francisco.rullan@aae.pr.gov, mgrpcorp@gmail.com, manuelgabrielfernandez@gmail.com, mmuntanerlaw@gmail.com, licenciadamasferrer@gmail.com and wilma.lopez@aae.pr.gov. I also certify that today, May 31, 2019, 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:

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For the record, I sign this in San Juan, Puerto Rico, today May 31, 2019.



Sonia M. Seda Gaztambide
Interim Clerk