

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

2019 JUL -5 AM 11:41

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

NO. CEPR-AP-2018-0001

SUBJECT: PREPA's Interim
Compliance Filing re July 2, 2019,
Order, and Motion for Reconsideration
on General or Interim Basis

**PREPA'S INTERIM COMPLIANCE FILING RE JULY 2, 2019, ORDER, AND
MOTION FOR RECONSIDERATION ON GENERAL OR INTERIM BASIS**

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") PREPA's Interim Compliance Filing re July 2, 2019, Order, and Motion for Reconsideration on General or Interim Basis, relating to PREPA's request for approval of the proposed Siemens PTI Contract amendment.

1. The Energy Bureau's July 2nd order, in brief: (a) authorizes an amendment or new Contract limited to the amount of \$175,721,000, for work identified in Siemens' Contract Release Number 8 Proposal (the "CR-8 Proposal"); and (b) requires PREPA to file on July 5, 2019, by 12:00 p.m. AT, "a detailed proposal, including any other work that Siemens will perform regarding the IRP or any other process."

2. PREPA understands that the Energy Bureau seeks to achieve a reasoned and practical outcome on this subject, and, to that end, that the Bureau approved the contract amount associated with the CR-8 Proposal and provided for possible additional amounts.

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3. At the same time, however, PREPA and Siemens cannot practically achieve a comparable level of detail for the remaining IRP work, because of the profound uncertainties about what work and what level of work that Siemens will need to perform in the remainder of this IRP case.

4. Accordingly, PREPA will provide some additional existing information in this compliance filing, but PREPA also will ask for reconsideration either in general or at least on an interim (or "middle ground") basis, so that the Energy Bureau and PREPA can balance the concerns that underlie the Bureau's orders while at the same time not impeding or delaying the conduct of the IRP case.

5. To begin with, PREPA wishes to make clear that the \$750,000 figure in the proposed Siemens Contract amendment is a "do not exceed" figure. To put it another way, the \$750,000 figure is a cap. Siemens could be paid up to \$750,000, but only if Siemens performs work in accordance with the Contract and submits timely and proper requests for payment.

6. In addition, PREPA wishes to observe, as it previously has noted, that some of the proposed Siemens Contract amendment is for work outside of the IRP case. Some of the Contract amendment anticipates that Siemens will continue to assist PREPA with compliance with Financial Oversight and Management Board ("FOMB") directives or requests. The frequency and extent of that work is difficult to predict, and it is not in the control of PREPA. Moreover, some of the Contract amendment anticipates that Siemens will continue to assist PREPA with other work, especially, although not exclusively, technical planning assistance to PREPA's Planning directorate. The frequency and extent of that work also is difficult to predict, and it is not fully in the control of PREPA.

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7. Furthermore, PREPA previously had noted that the schedule of the remainder of the IRP case, and what work would be required of Siemens, was not yet known. As of July 3, there now is information about the schedule, but there still are profound uncertainties.

8. On July 3, 2019, the Energy Bureau issued three orders in this case. One of the orders is very relevant here. One of the orders is on: "Completeness Determination of PREPA's IRP Filing and Procedural Calendar". In brief, the Completeness and Calendar order finds Completeness, but also: (a) includes very detailed discussion of some items that the Bureau expects to be discussed during this proceeding; (b) directs the provision of certain additional detailed information on two different subjects by July 12, 2019, at 12:00 pm AT; and (c) puts PREPA on notice that the Bureau will expect additional detailed information on several other subjects. The order also sets the procedural calendar, including: (a) discovery from July 3, 2019, through October 1, 2019; (b) petitions to intervene by August 2, 2019; (c) an initial technical hearing on August 13, 2019; (d) amicus curiae briefs by September 20, 2019; (e) intervenor testimony by October 15, 2019; (f) an evidentiary hearing on October 22-25, 2019; (g) final Legal and Substantive Briefs by November 12, 2019; (h) Reply Briefs by November 26, 2019; (i) a public hearing on November 26, 2019; and (j) written public comments by December 3, 2019.

9. Setting aside, for the moment, PREPA's very serious concerns about the procedural calendar,¹ the order and the calendar illustrates the significant difficulties with

¹ Before proceeding further, PREPA must note that it is deeply concerned by the procedural calendar. The calendar provides for no rebuttal testimony by PREPA, and for as little as only four business days in which PREPA can conduct discovery from intervenors after the intervenors file written testimony and before the evidentiary hearing starts. As a practical matter, that means no discovery. The calendar is severely out of sync with good utility regulation practice. In major utility matters, where the utility is the proponent, the norm is to give the utility the last word, including in written testimony. In addition, good utility regulation practice requires sufficient opportunities for the

trying to formulate a detailed estimate of work for Siemens in the remainder of the IRP case. There will be three months of discovery by intervenors. The Energy Bureau has identified in advance some inquiries that it will pursue, some specific and some general, and surely the Energy Bureau's staff / consultants also will issue extensive discovery. Depending on what intervenors and staff / consultant ask, and what intervenors propose, Siemens may have to perform an immense of work, but there is no practical way to identify specifics other than the limited items in the order.

10. In addition, PREPA has not had a workable opportunity to discuss the July 3 order with Siemens to develop the detailed information the Energy Bureau seeks. July 4 was a major federal and Puerto Rico holiday. PREPA can work with Siemens on trying to develop more information based on the July 3 order, but that task could not be accomplished by today, July 5.

11. Under these circumstances, PREPA remains of the view, and respectfully urges the Energy Bureau to reconsider, and to adopt, the view, that the proposed Siemens Contract amendment is a reasonable approach to providing for Siemens' ongoing work while capping the amount that Siemens can be paid.

12. In the alternative, PREPA respectfully suggests that the Energy Bureau reconsider, and adopt an interim or middle ground, to keep Siemens on the job past the immediate work that is planned and to avoid impeding or delaying this IRP case. For example, the Bureau could approve an interim amount of double the figure provided for

utility to conduct discovery regarding intervenor testimony. The procedural calendar does not afford either of those things. The point of those requirements is not just to be fair to the utility. The point also is to allow the development of a sound administrative record on which the administrative agency can make a decision. The calendar, as it stands, will present the Energy Bureau with a lopsided record that may require in a decision that is not in the interests of the people of Puerto Rico. PREPA intends to file a motion to amend the procedural calendar.

in the July 3rd order, and set a due date in mid July by which, if not sooner, PREPA could give the Bureau an update on the discovery and other demands being handled by Siemens and the status of the work and amounts accrued under the Contract. That is just one possible approach. The Bureau may wish to formulate a different practical approach that achieves the same purposes.

13. Finally, in suggesting, in the alternative, that the Energy Bureau approve an interim or middle ground approach, PREPA wishes to add that the approach, whatever it is, should not involve numerous filings and multiple orders. That in itself would be time-consuming for all involved and could come at the expense of IRP work. Thus, the interim or middle ground approach should be one with a limited number of "moving pieces" in order to be efficient and not burdensome for all involved.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the Honorable Puerto Rico Energy Bureau accept this Interim Compliance Filing, reconsider its July 3 order, approve the proposed Siemens Contract amendment as soon as reasonably practical, or, in the alternative, provide for an interim or middle ground approach pending future filings, and enter any other relief as is warranted.

RESPECTFULLY SUBMITTED.

IN SAN JUAN, PUERTO RICO, THIS 5TH DAY OF JULY, 2019
PUERTO RICO ELECTRIC POWER AUTHORITY

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