



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

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY REQUEST FOR PROPOSALS FOR
MOBILE GENERATION UNITS

CASE NO.: NEPR-IN-2019-0001

SUBJECT: Notice of Investigation.

RESOLUTION AND ORDER

I. Introduction

On September 1, 2016, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") approved, in conjunction with the Puerto Rico Electric Power Authority ("PREPA"), Regulation 8815, *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet*. As stated on Section 1.2 of Regulation 8815, its purpose is:

"to establish a procurement, evaluation, selection, negotiation and award process for contracting with third parties for the purchase of energy and for the procurement, evaluation, selection, negotiation and award process for **the modernization and upgrade of the generation fleet and other resources of the Authority**, that is consistent and transparent, and that encourages and supports a climate of private sector innovation and investment in the Commonwealth to address the specific power generation needs of the Authority." (Emphasis supplied.)

II. Legal Basis

The Energy Bureau was created with the purpose of serving as an independent regulatory entity to Puerto Rico's energy sector and as the appropriate forum for, aligned with all other stakeholders in the energy sector and governmental entities, elaborate and implement, in a transparent and open manner, Puerto Rico's energy public policy.

The Energy Bureau's enabling act bestows upon it broad powers and duties, among which is the duty of "[e]stablish and implement [...] the necessary regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system" and "[o]versee the quality, efficiency, and reliability of the electric power services provided by any electric power company certified in Puerto Rico".¹ To

¹ See Articles 6.3 (c) and (d) of Act 57-2014, known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

discharge its duties, the Energy Bureau is authorized to “[c]onduct inspections, investigations, and audits, if necessary”, and “[c]onduct periodical studies and investigations on energy generation, transmission, distribution, use, and consumption.”²


III. Scope of the Investigation

The Energy Bureau has been made aware of the issuance of a Request for Proposal (“RFP”) to solicit applications from interested qualified parties that can provide new Mobile Generation Units to be installed in Yabucoa and Palo Seco.³ It is important to note that PREPA failed to inform the Energy Bureau of the issuance of the RFP, as required by Regulation 8815.

Pursuant to Section V of Regulation 8543,⁴ the Energy Bureau begins this investigation in order to evaluate the process PREPA used to issue and adjudicate the aforementioned RFP.

IV. Energy Bureau’s Order

In light of the above, the Energy Bureau **ORDERS** the following:

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1. PREPA must provide to the Energy Bureau true and exact copies of the following documents on or before 12:00 p.m., August 5, 2019:
 - a. The RFP for the Mobile Generation Units.
 - b. Any analysis, including workpapers in native form with formulae intact, performed to determine that the installation of the Mobile Generation Units is the least cost, best option and in the public interest;
 - c. All proposals received by PREPA in response to the issued RFP;
 - d. Any analysis and/or report generated during the evaluation process of the RFP responses;
 - e. The selection notice;
 - f. The RFP for any other resource option which PREPA may have issued; and,
 - g. Any other document in the administrative record including, but not limited to, legal memoranda and any resolutions issued by PREPA’s Board of Directors authorizing the commencement of the RFP process, the award of such RFP and/or the execution of a contract.
 2. PREPA representatives must attend a Public Technical Conference on August 15 2019 at 9:00 a.m. at the Energy Bureau’s Hearing Room, located at World Plaza

² *Id.* at Articles 6.3 (y) and (z).

³ See *Lupa del Apelativo a subasta amañada por la AEE*, Noticel, July 23, 2019. The Energy Bureau requested, and has on file, a copy of the sentence issued by the Court of Appeals on Case No. KLRA201900342.

⁴ *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*, December 18, 2014.



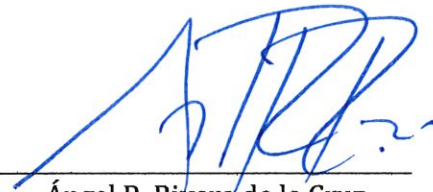
Building, 268 Muñoz Rivera Ave, 8th Floor, San Juan, P.R. At the Technical Conference PREPA must be ready to present to the Energy Bureau the economic analysis and any other analysis performed in relation to PREPA's determination to require Mobile Generation Units in specific areas of the electric grid. PREPA must demonstrate that the RFP and the proposed acquisition of the Mobile Generation Units is consistent with its Integrated Resource Plan, as required by Regulation 8815. PREPA must be prepared to answer Energy Bureau's questions and to provide any additional documents, as requested. As such PREPA must ensure that the personnel with personal knowledge of the RFP and its adjudication process is present at the Public Technical Conference. All questions will be answered under oath.

3. PREPA to comply with all other aspects of this Order as set forth above.
4. PREPA must obtain the Energy Bureau's **APPROVAL PRIOR** to executing a contract as a result of the RFP process.

The Energy Bureau **WARNS** PREPA that noncompliance with the provisions of this Resolution and Order may result in the imposition of administrative fines up to twenty-five thousand dollars (\$25,000) per day, per violation, as well as any other administrative sanctions the Energy Bureau deems necessary, in accordance with the applicable statutes and regulations.

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



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on July 26, 2019. I also certify that on July 26, 2019 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@aeep.com and c-aquino@prepa.com. I also certify that today, July __, 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:

Puerto Rico Electric Power Authority

Attn.: Nitza D. Vázquez Rodríguez

Astrid I. Rodríguez Cruz

Jorge R. Ruiz Pabón

PO Box 363928

San Juan, PR 00936-3928

For the record, I sign this in San Juan, Puerto Rico, today July 26, 2019.

Wanda I. Cordero Morales
Clerk