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: Motion for Reconsideration

MOTION FOR RECONSIDERATION

TO THE HONORABLE ENERGY BUREAU:

COMES NOW, Caribe GE International Energy Services, Corp. ("Caribe GE"), through the undersigned legal counsel, and very respectfully requests as follows:

1. On August 2, 2019, Caribe GE moved for intervention in these proceedings. Caribe GE's petition was presented by the undersigned counsel, who also represents the Solar & Energy Storage Association of Puerto Rico ("SESA-PR") and which entity also requested intervention on the same date. On August 6, the Bureau issued a Resolution in which it stated the following:

> Petitions to intervene are granted under the assumption that the party has particular interests that could be affected by the outcome of the case, and that the party is not represented by any other party intervening in the case. The shared legal representation [of Caribe GE and SESA-PR] negates that assumption and suggests a conflict regarding the representation of interests that may have opposing interests. Therefore, the Energy Bureau GRANTS Caribe GE and SESA-PR until 12:00 p.m. of August 8, 2019 to retain separate legal representation and notify such representation to the Energy Bureau.

2. In so holding, the Energy Bureau issued the equivalent of a disqualification order. Because the Bureau's order is based on incorrect premises and assumptions, we respectfully request its reconsideration.

3. First, the Energy Bureau's resolution implies that Caribe GE could represent SESA-PR or vice versa by virtue of their shared legal representation: a petition to intervene is granted "under the assumption that the party has particular interests that could be affected by the outcome of the case, and that the party is not represented by any other party intervening in the case. The shared legal representation negates that assumption ..." This is not correct. Caribe GE and SESA-PR's interests in these proceedings are separate and distinct and neither party represents the other. The fact that Caribe GE and SESA-PR both selected the same counsel, as is their right, does not translate to their having the same interests or representing each other.

4. Second, the Energy Bureau assumes that such joint legal representation "suggests a conflict" between parties that "may have opposing interests." Again, this is not correct.

5. Puerto Rico canons of ethics do not prohibit the simultaneous representation of clients in the same matter; such representation is proscribed only when the interests of the clients are adverse or potentially adverse. Pursuant to Canon 21, "[i]t is unprofessional to represent conflicting interests. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose." 4 L.P.R.A. Ap. IX § 21.

6. Caribe GE's and SESA-PR's interests in these proceedings are certainly different, but they are neither adverse nor potentially adverse to each other. Matters that are important to one party have no bearing on the other. Their respective areas of interest focus on wholly distinct aspects of the draft Integrated Resource Plan ("IRP") that has been presented by the Puerto Rico Electric Power Authority. Each party will be presenting its views and advancing their respective positions with respect to the draft IRP. To do so, neither Caribe GE nor SESA-PR need or intend to detract from each other's positions.

7. Appearing counsel did not accept the simultaneous representation of Caribe GE and SESA-PR without pondering the above. In fact, each client has had the opportunity to review the matter with independent internal or external counsel and concluded no conflict exists.

8. Also, the Energy Bureau's August 6 Resolution appears to be inconsistent with the agency's treatment of at least two groups of intervenors represented by the same counsel or common counsel. Caribe GE does not have any concern with respect to such petitions, but the fact remains that, in those cases, the Bureau did not have anything to say about the fact that those entities share legal representation.

9. Puerto Rico's Supreme Court has held that disqualification of counsel affects the conduct of cases, imposes economic burdens on the party suffering the disqualification and denies that party the right to select counsel of its choice. In the words of the Supreme Court:

> When a disqualification is ordered, the party whose lawyer is disqualified must seek new legal representation to continue the proceedings. The effect of this is a delay in the process of the case and in many cases it represents a greater economic burden due to additional disbursements of money. In addition, disqualification deprives the party whose legal representation was disqualified from being represented by the member of the bar of his choice, thus affecting his right to selection of counsel. Wolfram, Modern Legal Ethics, Minnesota, West Publishing Co., 1986, Sec. 7.1.3, p. 318. Although in civil cases the right to selection of counsel is not a fundamental right, it is a right that should not be affected if there is no real justification for it. See: Meléndez v. Caribbean Int'l. News, supra; Autumn v. Vélez, supra; Sánchez Acevedo v. E.L.A., 125 D.P.R. 432, 438 (1990); In re Vélez, 103 D.P.R. 590, 599 (1975) (per curiam). [Footnote omitted.] In turn, the proceedings and results of the lawsuit could be affected. A lawyer who has spent considerable time working on a case, has prepared for it and has knowledge about it. Replacing the legal representative could have a detrimental effect on the way the case is handled. (Translation ours.)

Job Connection Center v. Sups. Econo, 185 D.P.R. 585, 599-600 (2012)

10. Respectfully, there is no factual basis for the Bureau's order requiring Caribe GE and SESA-PR to retain separate counsel. As explained above, the interests of Caribe GE and SESA-PR are not adverse or potentially adverse and, therefore, retaining separate counsel is not required. As noted by the Supreme Court in Job Connection, although the right to select counsel is not deemed a fundamental right in civil cases, it is a right that should not be affected without due justification.

WHEREFORE, Caribe GE respectfully requests the Energy Bureau to reconsider its August 6 resolution requiring retention of separate counsel. Should the Energy Bureau decide to deny the instant motion, however, Caribe GE respectfully requests a one (1) day extension of time to comply with the Bureau's directive.

I HEREBY CERTIFY that a copy of this document has been notified on this date via email to the following:

1. Puerto Rico Electric Power Authority to the following persons: n-vazquez@aeepr.com, astrid.rodriguez@prepa.com, c-aquino@prepa.com and jorge.ruiz@prepa.com
2. Environmental Defense Fund: acarbo@edf.org
3. EcoElectrica L.P.: carlos.reyes@ecoelectrica.com, and ccf@tcmrslaw.com
4. Comité de Diálogo Ambiental, Inc., El Puente Williamsburg, Inc. – Enlace Latino de Acción Climática, Comité Yabucoeño Pro-Calidad de Vida, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Sierra Club and its Puerto Rico Chapter, Mayagüezanos por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc. Campamento Contra las Cenizas de Peñuelas, Inc. and CAMBIO Puerto Rico ("Local Environmental Organizations"): pedrosaade5@gmail.com, rstgo2@gmail.com, larroyo@earthjustice.org; rmurthy@earthjustice.org, and jluebkemann@earthjustice.org
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6. AES-Puerto Rico, LP: axel.colon@aes.com
7. Consumer's Protection Independent Office ("OIPC"): hrivera@oipc.p.gov and jrivera@cnslpr.com
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9. PV Properties, Inc., Windmar Renewable Energy, Inc. and Coto Laurel Solar Farm, Inc.: victorluisgonzalez@yahoo.com, and mgrpcorp@gmail.com
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16. ACONER: aconer.pr@gmail.com

I also certify that, on this date, I have sent a true and exact copy of this document to

17. Colegio de Ingenieros & Agrimensores de Puerto Rico: Attn: Pablo Vázquez Ruiz, P.O. Box 363845, San Juan PR 00936-3845.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8th day of August, 2019.

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